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Motor vehicle taxation and other issues before the Revenue Oversight

Motor Vehicle Taxation and Other Issues Before the Revenue Oversight Committee

A Report to the Governor
and the
55th Legislature
of the
Revenue Oversight Committee

December 1996

Prepared by
Montana Legislative Services Division
State Capitol, Room 138
Helena MT 59620-1706

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Motor Vehicle Taxation and Other Issues Before the Revenue Oversight Committee Final Report

Revenue Oversight Committee

December 1996

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TABLE OF CONTENTS

PREFACE i
RECOMMENDATIONS iii

CHAPTER ONE 1
INTRODUCTION 1
HOUSE BILL NO. 363 1
Development of the Legislation 1
Legislative Action 3
STUDY OBJECTIVES FOR REVISING THE TAXATION OF MOTOR VEHICLES 4
Policy Questions 4
MOTOR VEHICLE TAXATION STUDY 5
Passenger Vehicles 6
Heavy Trucks 9
COMMITTEE ACTION 12
Bill Draft Requests 12
Committee Approval of Bill Drafts 12
ENDNOTES 15

CHAPTER TWO 17
INTRODUCTION 17
APPLICATION OF BENEFICIAL USE PROPERTY TAX TO SKI AREAS 17
Introduction 17
History of the Beneficial Use Tax in Montana 17
Beneficial Use Tax on Ski Areas in Other States 20
Legal Analysis 21
Committee Action 22
ALLOCATION OF THE METAL MINES TAX 23
Introduction 23
Recent History of the Metal Mines Tax 24
Recommendations 26
Committee Action 27
RAILROAD CAR TAX SETTLEMENT AND TAX SETTLEMENT ISSUES 27
Railroad Car Tax Settlement 27
Statutory Authority to Enter Into Tax Settlements 31
Recommendations 34
Committee Action 34
COAL SEVERANCE TAX LITIGATION 36
ENDNOTES 39

APPENDIX A 41
APPENDIX B 45
APPENDIX C 47

PREFACE

This document is the final report of the Revenue Oversight Committee for the 1995-96 interim. It is divided into two unrelated chapters. Chapter One is the final report from the study of motor vehicle taxation. The 1995 Legislature did not assign any formal studies to the Committee. However, the Committee decided that a review of the taxation of motor vehicles should be one of its policy priorities.

Chapter Two discusses a limited number of other issues that came before the Revenue Oversight Committee during the interim. These issues include the application of the beneficial use tax to ski areas, the allocation of the metal mines tax to the resource indemnity trust fund, the railroad car tax settlement and other tax settlement issues, and coal severance tax litigation related to the Crow Indian Tribe lawsuit.

RECOMMENDATIONS

The Revenue Oversight Committee recommends that the 55th Legislature enact the following legislation: *

LC 77

An Act generally revising the allocation of the metal mines license tax; correcting an overallocation of the metal mines license tax; providing that 15.5 percent of the metal mines tax is distributed in the same manner as the resource indemnity and ground water assessment tax.

LC 78

An Act clarifying the definition of the average statewide mill levy applied to railroad cars operating within the state. * *

LC 101

An Act exempting recreational leases from the beneficial use property tax.

LC 218

An Act generally revising the classification and taxation of certain trailers, campers, and truck toppers; imposing a fee in lieu of ad valorem taxes on all trailers, pole trailers, and semitrailers having a declared weight of less than 26,000 pounds; exempting from taxation all campers and truck toppers.

LC 219

An Act generally revising the classification, valuation, and taxation of motor vehicles; taxing automobiles, trucks having a rated capacity of 1 ton or less, vans, and sport utility vehicles at 2 percent of the depreciated value of the manufacturer's suggested retail price; exempting from property taxation buses, trucks having a rated capacity of more than 1 ton, truck tractors, and personal property attached to these exempt vehicles; imposing a fee in lieu of property taxes on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors; providing for the proration of the fee in lieu of tax for buses and trucks; replacing the tax on quadricycles with a fee in lieu of tax.

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* Copies of the bill drafts may be obtained from the Legislative Services Division.

* * At the December 2, 1996, meeting, the Committee adopted a proposal that would tax railroad cars at 95% of the commercial and industrial levy. Chapter 2 discusses issues related to the taxation of railroad cars, but this proposal was adopted after Chapter 2 was written.

CHAPTER ONE
MOTOR VEHICLE TAX STUDY

INTRODUCTION

During the 1995 Legislative Session, the Montana Legislature considered House Bill No. 363, a measure that would have revised the taxation of motor vehicles. The bill was the result of the efforts of an advisory committee appointed to look at ways of simplifying motor vehicle taxes. Although the bill passed the House of Representatives, it was tabled in the Senate Taxation Committee. The members of the Senate Taxation Committee concluded that the issue of motor vehicle taxation required additional study and more taxpayer involvement in the development of a proposal. During executive action on the bill, Senator Mike Foster suggested that the issue should be addressed by the Revenue Oversight Committee (Committee). At its November 17, 1995, meeting, the Committee decided that motor vehicle taxation should be one of its policy priorities.

Committee staff asked several representatives of government agencies and motor vehicle associations to assist the Committee in its consideration of motor vehicle taxation. This motor vehicle taxation advisory group provided technical assistance and insight in the formulation of proposals, based in large measure on the provisions of House Bill No. 363, to revise the taxation of motor vehicles and trailers. The Committee has recommended that two proposals be adopted by the 55th Legislature.

This chapter reviews the genesis of House Bill No. 363, the activities of the motor vehicle taxation advisory group, and the proposals recommended by the Committee.

HOUSE BILL NO. 363

Development of the Legislation

During the November 1993 Special Session, the Montana Legislature enacted House Bill No. 50 (Ch. 27, Sp. L. November 1993) to generally restructure the property valuation and assessment functions of the Department of Revenue (Department). The bill also directed the Governor to appoint an advisory committee to study the valuation and taxation of motor vehicles and mobile homes. The membership of the committee had to include a County Treasurer, a County Assessor, an employee of the Motor Vehicle Division (Department of

Justice), an employee of the Department of Transportation, and an employee of the Property Assessment Division (Department of Revenue). The committee was instructed to "study the methods and processes for the valuation and taxation of motor vehicles and mobile homes".*

Under current law,** several state agencies are involved in the assessment and collection of taxes and fees on motor vehicles and trailers. Cars and light trucks with a rated capacity of 1 ton or less are subject to a tax equal to 2% of the average trade-in value listed in National Automobile Dealers Association used car guides. These values are generated automatically from computer tapes by the Motor Vehicle Division, Department of Justice. If, however, information is not available for a particular vehicle, its value is determined by the Department of Revenue. Quadricycles (and, formerly, motorcycles)*** are also valued by the Department of Revenue.

Buses, trucks having a rated capacity of more than 1 ton (heavy trucks), and trailers having declared weight of less than 26,000 pounds are taxed as class eight property under 15-6-138, MCA. These vehicles are valued by the Department of Revenue, and the values are based on average wholesale values contained in national appraisal guides or manuals.

Interstate fleets, including cars and light trucks as well as heavy trucks, are valued by the Department of Transportation. The market value of a heavy truck in an interstate fleet is based on the purchase price of each taxable vehicle in the fleets, depreciated by a schedule prepared by the Department of Revenue. Market value is determined by multiplying the depreciated value of the vehicle by the percentage of miles traveled in Montana. Interstate fleets are taxed at the applicable class eight property tax rate. The total tax on an interstate fleet

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* The advisory committee was unable to adequately address the complexities of the valuation and taxation of mobile homes.

** The discussion of current law relies in part on Motor Vehicle Advisory Committee Findings (Draft).

*** Motorcycles were previously subject to the 2% tax and valued by the Department of Revenue. Senate Bill No. 161 (Ch. 580, L. 1995) replaced the tax on motorcycles with a fee based on the motorcycles' age and engine size.

is equal to the taxable value of the fleet times the statewide average mill levy.*

The involvement of several state agencies in the taxation of motor vehicles and trailers and the different methods of valuation led the advisory committee to try to simplify the process. The goals of the advisory committee were to improve customer satisfaction, to increase efficiency by revising and simplifying the current method of taxation, and to maintain revenue neutrality. The result of the advisory committee's work was the introduction in 1995 by Representative Emily Swanson of House Bill No. 363. The bill, requested by the Department of Revenue, would have:

- taxed all motor vehicles at 2% of the depreciated value of the manufacturer's suggested retail price (MSRP);**
- imposed the new car sales tax on all new motor vehicles based on the MSRP;
- exempted from taxation all campers and truck toppers; and
- imposed a fee in lieu of tax on all trailers and semitrailers.

Legislative Action

House Bill No. 363 was heard in the House Taxation Committee on February 10, 1995.[1] Opponents testified that the bill would adversely affect the trucking industry because the MSRP was generally much higher than the typical selling price of heavy trucks in Montana. They suggested that acquisition price would be a better basis for determining value for large trucks. In addition, the same opponents were concerned that they would be worse off under the proposed legislation if class eight property (business equipment) tax rates were reduced.*** Other opponents argued that the current system works well and that the anticipated tax and revenue shifts do not justify changing the system.

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* An additional 45 mills are levied against all trucks and truck tractors of 26,000 pounds or more gross vehicle weight to account for the property tax exemption for trailers that have a licensed gross weight of 26,000 pounds or more (see 15-24-2501, MCA).

** The manufacturer's suggested retail price is based upon standard equipment on a vehicle and does not include price additions or deductions for optional accessories.

*** Senate Bill No. 417 (Ch. 570, L. 1995) provides for the phased-in reduction of the class eight property tax rate from 9% to 6%.

The House Taxation Committee amended House Bill No. 363 to use acquisition price as the basis for determining value for large trucks and revised the proposed depreciation schedule applied to all vehicles.

Following passage by the House, the bill was heard in the Senate Taxation Committee on April 5, 1995.[2] Most of the previous opponents supported the bill, provided that amendments prepared by the Department were adopted. The amendments would have eliminated large trucks from the revised system until December 31, 1997. After that, large trucks would be valued based on acquisition price and would be subject to a separate depreciation schedule. In addition, the sales tax applied to heavy trucks would be calculated based on acquisition price. Despite the newfound support for the bill, Senate Taxation Committee members questioned whether the trucking industry and others had been adequately involved in the development of the proposal. That Committee also questioned the amendments adopted by the House. In particular, the Senate Taxation Committee was concerned about the shift in tax burden for cars and light trucks based on vehicle type and age. Because of the apparent problems in the bill, Senator Foster moved that the bill be tabled. He also suggested that the Revenue Oversight Committee study the issue of motor vehicle taxation during the 1995-96 interim. At its November 17, 1995, meeting, the Committee decided that motor vehicle taxation should be one of its policy priorities.

STUDY OBJECTIVES FOR REVISING THE TAXATION OF MOTOR VEHICLES

In early January 1996, Committee staff asked several representatives of government agencies and motor vehicle associations to assist the Committee in its consideration of motor vehicle taxation. This "motor vehicle taxation group" included employees of the Departments of Justice, Revenue, and Transportation, a County Treasurer as well as a representative from the Montana Automobile Dealers Association, and representatives of the trucking industry. The group was informally divided into a project team and an advisory group. A list of all members is attached as Appendix A. The project team was involved in data collection and analysis and, in conjunction with the advisory group, the development of policy options for presentation to the Committee.

Policy Questions

The entire motor vehicle taxation group met January 10, 1996, to begin the discussion of issues related to the taxation of motor vehicles. Participants

generally agreed that House Bill No. 363 would be a good starting point for further analysis. However, in order to evaluate the alternatives that may be appropriate for changing the way in which motor vehicles are taxed, the study plan presented to the Committee at its February 2, 1996, meeting[3] recommended that several questions be considered:

1. Is the current system for the taxation of motor vehicles so complex and inefficient that it should be significantly revised?

2. Is the method of taxing automobiles and light trucks more complex than the method of taxing large trucks, or vice versa?

3. What are the disparities in the taxation of motor vehicles and trailers (including the disparities between interstate and intrastate vehicles and trailers)? Are these disparities justifiable?

4. Can improvements be made to the current system to minimize inequities and administrative and compliance costs?

5. If House Bill No. 363 is the best alternative, what is the appropriate method of valuing different types of motor vehicles and what is the appropriate depreciation factor?

6. Are there better alternatives?

7. If the current system is revised, what is the (new cliche) "shift and shaft factor"? That is, who are the (old cliche) winners and losers, both in terms of the taxpayer and state and local governments?

8. What desirable features of a new or improved system would be necessary to offset the undesirable effects of the shift and shaft factor?

MOTOR VEHICLE TAXATION STUDY

The project team and the advisory group met several times between January 1996 and September 1996. Most of the policy issues and data analysis as well as the development of the final proposal were undertaken by the project team. The work of the project team was presented to both the advisory group and the Committee.

The project team considered several options regarding the taxation of passenger vehicles and heavy trucks. The options included flat fees, variations of House Bill No. 363, and the existing system. The project team (and the advisory group) decided early on that the existing system should be revised and that some variation of House Bill No. 363 would improve the system. The primary goals of the project team were to minimize the tax impact on taxpayers and the revenue impact to local governments. The following two sections describe the development of the separate proposals related to revising the taxation of passenger vehicles and heavy trucks. The project team and the advisory group also decided early on that the taxation of trailers should be revised as provided in House Bill No. 363. The final section discusses Committee action on the proposals.

Passenger Vehicles

Passenger vehicles include automobiles, light trucks, vans, and sport utility vehicles. All new motor vehicles are subject to a 1.5% sales tax. Passenger vehicles (except new vehicles subject to the 1.5% sales tax) are taxed, for local property tax purposes, at 2% of the average trade-in value obtained from the National Automobile Dealers Association used car guides ("Blue Book").* A county may impose a local option tax on passenger vehicles up to 0.5% of the value of the vehicle (61-3-537, MCA). The motor vehicle property tax is first imposed in the year following the purchase of the new vehicle. As a result, there is generally an increase in the tax paid, or a "spike", on the vehicle in the next year. There may be an additional spike in the following year for certain vehicles. In the first year that the property tax is imposed, motor vehicles are valued, because Blue Book values are not available, at 80% of the vehicle's MSRP. Consequently, the Blue Book value of the vehicle in the subsequent year may be higher than the calculated value.** Finally, Blue Book values may increase or remain constant from one year to the next. Thus, there may again be a tax increase even though the taxpayer has come to expect a tax decrease.

One of the principal objectives of the project group was to eliminate the apparent vagaries in the taxation of passenger vehicles by developing a

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* Passenger vehicles are not subject to local mill levies. Revenue from the motor vehicle tax is distributed in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed (61-3-509, MCA).

** Refer to Appendix B, An Alternative Approach to Taxation of Light Cars and Trucks in Montana, pp. 7 and 8, for additional discussion of "spiking" issues.

simplified tax structure that is predictable and that is easy to understand and to administer. The project group considered several options, including a flat fee. In 1981, the Montana Legislature replaced the property tax on passenger vehicles with a flat fee schedule based on the age and weight of the vehicle (Ch. 614, L. 1981). Previously, automobiles and light trucks were taxed at 13% of market value and were subject to local and statewide mill levies. The legislation provided for state reimbursement for lost revenue to local taxing jurisdictions. In 1987, the Legislature eliminated the flat fee and imposed the current 2% tax (Ch. 611, L. 1987). The project group concluded that the flat fee approach was inequitable and, based on an analysis of the data, would result in large revenue gains or losses among local governments.

The project team developed various options to revise the taxation of passenger vehicles based on the House Bill No. 363 model. At the Committee's June 24 meeting, Jeff Martin, Committee staff, presented a report that described several options for revising the taxation of passenger vehicles.[4] Each option would tax passenger vehicles at 2% of the depreciated value of the MSRP. Data for the report was complied from Department of Justice data tapes by Larry Finch, Program Manager, Office of Research and Information, Department of Revenue. The report included information on the shift in tax burden for passenger cars, light pickups, vans, and "sports utility" vehicles as well as the revenue impacts to state and local governments.

The guiding assumption (owing, perhaps, to a long postsession hangover) for the analysis was that revenue neutrality should be maintained with respect to <u>total</u> taxes. Under each option, the new car sales tax revenue would fall by about $558,000 (assuming that the sales tax were uniformly imposed based on the MSRP. See below.), while the locally imposed motor vehicle tax would increase revenue by a like amount statewide. Blue Book values for cars tend to decline faster than for other types of passenger vehicles, particularly pickups and sport utility vehicles. By applying the same arbitrary depreciation schedule to each type of vehicle, the tax burden for cars increases, while the tax burden decreases or remains the same for other types of vehicles. The maximum increase for passenger vehicles would occur under Option 1 and would amount to a $5.7 million increase statewide.[5] The shift in tax burden to cars would be mitigated under an option (Option 3) that would use a separate depreciation schedule for pickups. However, the increase in passenger car taxes statewide would amount to $2.9 million.[6]

The analysis showed the combined impact to the state from lower sales tax collections and increased revenue from statewide mill levies (University System mill levy and school equalization levies) and the impact to local governments under each option. Depending on the option, the total revenue loss to the state would range from $400,000 to $435,000, while the revenue gain to local governments would range from $230,000 to $244,000. Revenue gains or losses to local governments would depend on the distribution by vehicle type and age within the taxing jurisdiction.

The Committee expressed concern about the shift in tax burden to passenger cars. Senator Foster articulated the Committee's concern: He did not remember direction from any Committee member that when the analysis on motor vehicle taxation was completed, the result was to "stick it to the passenger cars".[7] Mr. Martin told the Committee that the shift was due primarily to the assumption relating to revenue neutrality with respect to total taxes, including the new car sales tax. Because the new car sales tax and the motor vehicle tax are separate taxes, a better approach would be to devise an option that is revenue neutral with respect to local taxes, without regard to the new car sales tax.

The project group met July 18, 1996,* to consider an option that would alleviate the concerns of the Committee by having separate depreciation schedules based on type of vehicle (i.e., car, light truck, van, or sport utility vehicle) and age. The analysis of this option was prepared by Larry Finch and is attached as Appendix B. The depreciation schedules were determined by using the ratio of the total market value for each vehicle type to the total MSRP by vehicle type for each year of data available in the Department of Justice data base. The last attachment in Appendix B compares the tax liability for selected vehicles under current law with the proposed change. This approach better reflects current market depreciation schedules, eliminates the arbitrary depreciation schedules contained in the previously considered options, eliminates the "second-year spike", minimizes tax shifting by type and age of vehicle, and minimizes revenue gains and losses to local governments. Again, revenue gains or losses to local governments would depend on the distribution by vehicle type and age within the taxing jurisdiction.

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* Senator "Spook" Stang and Representative Joe Tropila participated in this meeting.

The project team (and Senator Stang and Representative Tropila) agreed that this option be presented to the Committee. The project team decided not to recommend changes to the new motor vehicle tax. Under current law (61-3-502, MCA), the sales tax is assessed against f.o.b. factory list price of a vehicle that is the same as the MSRP.

Committee staff presented the proposal to the Committee at its August 26, 1996, meeting. Steve Turkiewicz, Executive Director, Montana Automobile Dealers Association, praised the efforts of the project team, especially for streamlining the process. However, he refrained from giving the proposal an unqualified endorsement. He said that any revision in the taxation of motor vehicles is in the political arena. He said that although his Association does not oppose the proposal, it prefers the flat fee method.[8] Mary Whittinghill, Administrator, Property Assessment Division, Department of Revenue, said that under current law, the value of a vehicle has to be entered into the Department of Justice computer system each year. If the value of the vehicle is not known, it must be assessed by the Department of Revenue. Under the proposal, the MSRP would only have to be entered one time and the value would be calculated from the depreciation schedule.[9]

Dennis Burr, President, Montana Taxpayers Association, said that the revised depreciation schedules contained in the proposal are an improvement over the previous options considered by the Committee. He said that Blue Book values are better indicators of market conditions and that taxpayers would probably prefer to be taxed under the existing system rather than on the basis of some arbitrary depreciation schedule. He said, however, that the depreciation schedules would be fixed in law and would not reflect changes in market conditions that are captured by the Blue Book. He noted that under the proposal, vehicles that tend to hold their value would receive a tax decrease, while vehicles that do not would experience a tax increase.[10]

The Committee delayed action on the proposal to revise the taxation of passenger vehicles until the project team presented a proposal for heavy trucks.

Heavy Trucks

The term "heavy trucks" refers to buses, trucks having a rated capacity of more than 1 ton, and truck tractors. Heavy trucks are subject to the 1.5% sales tax. Heavy trucks are taxed, for local property tax purposes, as class eight property under 15-6-138, MCA, and are subject to local mill levies in the county of

registration as well as to statewide levies. These vehicles are valued by the Department, and the values are based on average wholesale values contained in national appraisal guides or manuals.

The tax imposed on interstate fleets is administered by the Department of Transportation. Interstate fleets, except cars and light trucks, are taxed at the applicable class eight property tax rate. The total tax on an interstate fleet is equal to the taxable value of the fleet times the statewide average mill levy. (See page 2 for the determination of market value for interstate fleets). Cars and light trucks in an interstate fleet are taxed at 2% of the Blue Book value. The tax is prorated based on the proportional miles traveled in state.

The final proposal for heavy trucks took a different tack from the proposal for passenger vehicles. Using the MSRP as the basis for taxing heavy trucks was dismissed on the grounds that the MSRP was a generally inflated price and that that price rarely reflected, even approximately, what a heavy truck would sell for in Montana. The entire motor vehicle taxation group agreed that acquisition price depreciated by a statutorily determined schedule would be an appropriate method for taxing heavy trucks.

The project team spent a lot of time discussing this method. The primary objective of the project team was to devise a method by which intrastate vehicles and interstate fleets would be taxed on the same basis. The team was concerned whether acquisition price would achieve that objective. One concern was the potential difference in sales price for identical vehicles. For example, a trucking firm that purchased several vehicles at a time may pay less for each vehicle than an individual operator who purchased only one vehicle. Another concern was whether the acquisition price would be uniformly available. A data base used by the Department of Transportation has information on acquisition price of heavy trucks, but similar data is not available for class eight trucks. The taxpayer, then, would be required to report, if the taxpayer knew it, the acquisition price of the vehicle. Such a situation would, as project team member Dan Wirak, Mergenthaler's Transfer and Storage Co., put it, "make liars out of taxpayers".

At the July 18 meeting, the project team (absent the trucking industry representative), began to rehash the acquisition price approach for heavy trucks, when someone asked, "What would be the matter with going to a flat fee?" The project team had discussed the flat fee approach earlier in the study

but had not pursued it. Given the impasse with acquisition price, the project team decided to look more closely at a flat fee schedule. The team asked Larry Finch to develop a revenue-neutral flat fee schedule for all heavy trucks based on age and weight of the vehicle.* To prevent large shifts in tax liability between age groups or weight classes, the fee schedule should reflect current law average tax liability within each age group and weight class. The initial analysis was based on eight age groups and four weight classes.

The proposal was sent to the motor vehicle taxation advisory group. Some members of the group expressed skepticism about the flat fee proposal. One problem that was noted was a slight shift in tax burden to interstate fleets. Another problem was using gross vehicle weight rather than some industry weight standard. Gross vehicle weight, or the loaded weight declared by the owner of the vehicle, may be different for identical trucks. Finally, the limited number of age groups may cause unacceptable tax shifting. The motor vehicle taxation advisory group met August 20, 1996, to address these issues. The group decided to develop a fleet fee schedule based on 16 age groups. The number of weight groups would remain the same, but the manufacturer's rated capacity would be used rather than gross vehicle weight. Finally, the group decided that the proposal should be revenue neutral for class eight trucks and for interstate fleets. The group directed Mr. Finch to "recrunch" the data to meet the objectives of the group.

Dave Galt, Administrator, Motor Carrier Services Division, Department of Transportation, informed the group that the separate taxation of personal property on interstate fleets would not be enforced by out-of-state jurisdictions under international proportional registration agreements. To maintain consistency in the "tax" treatment of class eight trucks and interstate fleets, the group decided that personal property attached to a vehicle should be exempt from taxation and that the fee schedule should capture the value of the personal property.

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* In tax year 1995, class eight trucks generated about $3.4 million in property tax revenue, while interstate fleets generated about $1.2 million.

COMMITTEE ACTION

Bill Draft Requests

Mr. Finch presented the revised analysis of the flat fee proposal to the Committee on September 19, 1996. The report is attached as Appendix C. Mr. Finch said that the flat fee schedule is based on tax year 1995 data. Consequently, the flat fee schedule should be reduced by one-third to correspond with the reduction in the class eight property tax rate to 6% in 1998. The adjusted fee schedule is shown as Attachment 9 in Appendix C.

The flat fee proposal was supported by the Departments of Justice, Revenue, and Transportation and by Myron Mackey, Montana Tow Truck Association, Ben Havdahl (by letter), Montana Motor Carriers Association, and Mr. Wirak, Mergenthaler's Transfer and Storage Co. Committee staff informed the Committee that the proposal would exempt from taxation personal property attached to the vehicle. Ms. Whittinghill said that under current law, personal property attached to a vehicle is subject to tax. However, the tax would be paid only if the personal property is reported by the taxpayer. Under the proposal, personal property would be subject to taxation if it is detached from the vehicle.

The Committee requested that separate draft legislation be prepared for revising the taxation of passenger vehicles, heavy trucks, and trailers.

Committee Approval of Bill Drafts

At the Committee's October 18, 1996, meeting, Committee staff presented three bill drafts that would revise the taxation of passenger vehicles, heavy trucks, and trailers having a declared weight of less than 26,000 pounds. The Committee voted to introduce legislation to effect the changes. Committee staff recommended that the separate drafts to revise the taxation of passenger vehicles and heavy trucks be combined. Staff also recommended that a fee in lieu of tax be imposed on quadricyles to coincide with the fee in lieu of tax on motorcycles.* The Committee concurred in both recommendations.

The combined bill drafts are contained in LC 0219. The essential elements of the draft include:

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* A member of the project team asked Senator Stang, sponsor of Senate Bill No. 161 (see page 2), the measure that imposed the fee on motorcycles, to endorse the change for quadricycles.

- the taxation of light vehicles (passenger vehicles) at 2% of the depreciated value of the MSRP;
- separate depreciation schedules for automobiles, light trucks, vans, and sport utility vehicles;
- a $500 floor on the value of a light vehicle;

- a fee in lieu of tax on quadricycles in the same manner as on motorcycles under 61-3-527, MCA;
- a fee in lieu of tax on heavy trucks based on age and the manufacturer's rated weight of the vehicle;
- the exemption from taxation of personal property attached to a vehicle;
- the proration (but not refund), based on the number of months remaining in the year, of the fee in lieu of tax on heavy trucks registered for the first time;
- the repeal of the special property tax provisions on motor vehicle fleets under Title 15, chapter 24, part 1, MCA, and the recodification under Title 61, chapter 3, part 7, MCA;
- the repeal of the tax levy on trucks and truck tractors under 15-24-2501, MCA; and
- the transfer of the Department of Revenue's motor vehicle assessment functions to the Department of Justice.

The revisions to the taxation of trailers is contained in LC 0218. The proposed legislation would impose a fee in lieu of property taxes on trailers, pole trailers, and semitrailers, having a declared weight of less than 26,000 pounds. The fee would be based on the age and weight of the trailer. The legislation would also exempt all campers and truck toppers from taxation.

If the proposals are adopted by the 55th Legislature, they would be effective January 1, 1998. Copies of LC 0218 and LC 0219 may be obtained from the Legislative Services Division.

ENDNOTES

1. House Taxation Committee, Minutes, February 10, 1995, pp. 3-6.

2. Senate Taxation Committee, Minutes, April 5, 1995, pp. 3-6.

3. Jeff Martin, Proposed Study Plan: A Study of Motor Vehicle Taxation (Helena: Legislative Services Division, February 1996), pp. 1-7, in Minutes, Revenue Oversight Committee, February 2, 1996, EXHIBIT #2.

4. Jeff Martin, House Bill No. 363 Options for Revising the Taxation of Passenger Vehicles (Helena: Legislative Services Division, June 1996), pp. 1-10 and attachments, in Minutes, Revenue Oversight Committee, June 24, 1996, EXHIBIT #1.

5. Ibid., Attachment, Option 1.

6. Ibid., Attachment, Option 3.

7. Minutes, Revenue Oversight Committee meeting, June 24, 1996, p. 5.

8. Minutes, Revenue Oversight Committee meeting, August 26, 1996, p. 8.

9. Ibid., p. 9.

10. Ibid., pp. 9 and 10.

CHAPTER TWO

INTRODUCTION

During the 1995-96 interim, the Revenue Oversight Committee (Committee) considered several issues in addition to conducting the study on motor vehicle taxation. This chapter provides a brief summary of some of those issues and Committee action, if any.

APPLICATION OF BENEFICIAL USE PROPERTY TAX TO SKI AREAS

Introduction

At its November 17, 1995, meeting, Senator Mike Foster requested that the Committee review the applicability of the beneficial use tax to ski areas located on public lands.

Mick Robinson, Director, Department of Revenue, told the Committee that the Department of Revenue (Department) had met with the Montana Ski Areas Association to discuss whether ski areas on public lands are subject to the beneficial use tax. In a letter to a ski area operator, a private attorney concluded that "a strong argument can be made that a use of public lands by a ski area operator must be exclusive before the "beneficial use" tax may be legally imposed on that use".[1] A memorandum opinion prepared by the Department in response to that letter took the opposite view and maintained that "A person may be subject to taxation under the beneficial use tax for his use of public property for industrial, trade, or other business purposes even when that person does not have the "exclusive use" of the property."[2]

This section provides a brief history of the beneficial use tax in Montana and summarizes similar taxes in other states as they apply to ski areas. A separate memorandum prepared by the Committee's staff attorney discusses relevant case law related to the beneficial use tax.[3]

History of the Beneficial Use Tax in Montana

A beneficial use tax is a tax imposed on a taxable entity for the profit, benefit, or advantage derived from the use of property that is otherwise exempt from property taxation. This particular type of tax may come under many names and many guises, but for the purposes of this analysis, it will be referred to as the beneficial use tax.

The provisions of Montana's beneficial use tax are found under Title 15, chapter 24, part 12, MCA. The tax (or privilege tax on industrial, trade, or other business use of tax-exempt property) was enacted during the 1969 Legislative Session (Ch. 370, L. 1969). Representative Larry Fasbender, the sponsor of the legislation, testified that the bill was designed to tax businesses working under contract with a governmental agency. A Cascade County Commissioner cited the example of the Boeing Corporation renting trailers from the federal government for its employees. Local governments would be unable to tax these mobile homes without the enactment of a beneficial use tax.[4] The bill enacted 15-24-1203 (imposition of privilege tax), 15-24-1204 (rate of tax), 15-24-1205 (assessment and collection of tax), and 15-24-1206, MCA (county suit for delinquencies). At the time that the measure was enacted, the only exception to the tax was for:

> . . . the possession or other beneficial use of public lands occupied under the terms of mineral, timber or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit or easement relates.

There was no recorded testimony before either the House Ways and Means Committee or the Senate Taxation Committee regarding the rationale for the exception. The House Ways and Means Committee did adopt an amendment to add timber leases or permits as an exception.

Several other exemptions to the beneficial use tax have been added since the original enactment:

- buildings owned by public entities and located on public airports (Ch. 387, L. 1977);
- transmission lines and facilities with a capacity of less than 500 kv (Ch. 683, L. 1983);
- railroad right-of-way or track owned by the United States (Ch. 621, L. 1991) or acquired by the state (Ch. 591, L. 1987); and
- property held by a port authority created by a county or municipality or a port authority owned by the United States as long as the user does not have exclusive use (Ch. 427, L. 1993).

In 1981, the Montana Legislature attempted to directly tax Bonneville Power Administration (BPA) transmission lines constructed for use by the Colstrip power companies. House Bill No. 36 (Ch. 478, L. 1981) provided for the

taxation as utility property of certain electric transmission lines owned and operated by a public agency (i.e., BPA). However, the act would not be effective unless the U.S. Congress passed legislation allowing the state to tax a public agency.

Rather than waiting for the U.S. Congress to act, the Montana Legislature in 1983 enacted legislation (Ch. 683, L. 1983) clarifying that the Colstrip power companies were subject to the beneficial use tax for the transmission of electricity along the BPA 500 kv transmission lines from Townsend west to the Taft substation on the Montana-Idaho border. The power companies challenged the tax on the grounds that the power companies lacked sufficient beneficial use of the transmission lines, as well as on a number of federal and state constitutional grounds. The Montana Supreme Court upheld the tax in separate cases.[5]

The Legislature has also made other changes to beneficial use tax provisions. In 1993, Senator Tom Beck sponsored Senate Bill No. 325 (by request of the Department) to clarify the interest that is subject to the beneficial use tax. The bill amended 15-24-1204, MCA, as follows:

> **15-24-1204. Rate of privilege -- tax credit for federal payments in lieu of taxes.** The tax imposed upon ~~such~~ the possession or other beneficial use of tax-exempt property [for industrial, trade, or other business purposes]* ~~shall be in the same amount and to the same extent as the ad valorem property tax would be if the possessor or user were the owner thereof, provided that there shall be~~ is on the separate private interest in the tax-exempt property. The amount of payments that are made in lieu of taxes must be credited against the amount of tax that is imposed upon the beneficial use of property owned by the federal government.

Senator Beck told the Senate Taxation Committee that Senate Bill No. 325 (Ch. 256, L. 1993) was in response to the Montana Supreme Court decisions that upheld the beneficial use tax on the Colstrip power companies.[6] During executive action, Dave Woodgerd, Chief Legal Counsel, Department of Revenue, informed the Senate Taxation Committee that the bill would conform the beneficial use tax to the Supreme Court's interpretation.[7] The change

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* The phrase in brackets was added by House Bill No. 312 (Ch. 104, L. 1993) to clarify that the beneficial use tax applies only to commercial activity and not, for example, to the rental of living accommodations.

ensures that separate private uses of the same tax-exempt property are subject to the tax.

Also in 1993, Senator Steve Doherty introduced Senate Bill No. 183 (Ch. 90, L. 1993) to provide that property owned by both a tax-exempt and taxable entity or used for both tax-exempt and taxable purposes be assessed and taxed based upon the apportioned ownership or use of the property.

There are few exemptions from the beneficial use tax, and those exemptions apply to specific types of property. In addition, exclusive use is required only for mineral, timber, and grazing leases or for certain port authorities before the tax may be applied. Finally, recent legislative action has clarified the scope of the tax by apportioning the tax to separate users of tax-exempt property.

Beneficial Use Tax on Ski Areas in Other States

Close to one-half of the states tax the possessory interest on federal and state property.[8] In December 1995, Committee staff conducted a telephone survey of the Departments of Revenue in five states (Colorado, Idaho, Utah, Washington, and Wyoming) to find out whether they tax the beneficial use of ski areas located on federal land. Staff also reviewed the applicable statutes. The following is a summary of that survey and review.

Colorado

Section 39-3-135, Colo. Rev. Stat., imposes a tax on the use of real property that is exempt from taxation. The use must be in connection with a business conducted for profit. In general, the assessment, computation, and collection of the tax are identical to those of the ad valorem property tax. There are specific provisions in section 39-3-135, CRS, for determining the value of the possessory interest of a ski area located on federal land. The value is calculated by capitalizing the annual fee paid by the ski area to the United States.

Idaho

Idaho law is brief and to the point: Section 63-105G, Idaho Code, exempts from taxation the possessory rights to public land. However, improvements made by a person on public lands are taxed as personal property.

Utah

Section 59-4-101, Utah Code Ann., imposes a tax on the beneficial use of tax-exempt property if the property is used in a business conducted for profit. The

assessment, computation, and collection of the tax are identical to those of the ad valorem property tax. Utah law requires exclusive possession of the premises before the tax may be imposed. Ski areas in Utah are considered to have exclusive possession of the land even though others may use the land.[9]

Washington

Section 82.29A.030, Wash. Rev. Code, imposes a leasehold excise tax on the use of publicly owned real or personal property at the rate of 12% of taxable rent. Taxable rent is the amount due as payment for a leasehold interest when the lease agreement has been established under conditions specified in Washington statute. The tax may not exceed what would be paid as an ad valorem tax on the market value of fee land.

Wyoming

Section 39-1-201, Wyo. Stat., exempts from property taxation property owned by the federal government, the majority of which is used for governmental purposes. A governmental purpose does not include improvements placed on federal land for private or commercial purposes. Wyoming law is similar to that of Idaho in that there is not a tax on the possessory interest in federal land, but the real and personal property of the user is subject to taxation.

Legal Analysis

At the Committee's February 2, 1996, meeting, Lee Heiman, Committee legal advisor, presented a memorandum[10] that concluded that under Montana law, a ski area with a contractual right to use federal property would be subject to the beneficial use tax. The amount of the tax would be based on the value of the use that is established through the terms of the contract. Pat Melby, an attorney representing the Montana Ski Areas Association, generally agreed with Mr. Heiman's analysis, but he disputed the Department's intention to impose the tax on the full value of land leased by a ski area. In order to do this, the ski area would have to have exclusive use of the property. However, Forest Service permits specify that the land may be used for other purposes.

The Committee asked whether an exemption for ski areas from the beneficial use tax would jeopardize the tax on the beneficial use of the BPA power lines. Mr. Heiman and David Woodgerd did not believe an exemption for ski areas would necessarily impair the tax. However, if exemptions are continually allowed, the tax may be discriminatory. Director Robinson said that the Department believes that ski areas are subject to the tax but that it would not

impose the tax until the issue has been evaluated in cooperation with the ski areas and until the Legislature has an opportunity to consider the issue. The Committee postponed action pending further discussions between the Department and the Montana Ski Areas Association.

Committee Action

At the August 26, 1996, meeting, Randy Wilke, Bureau Chief, Property Assessment Division, Department of Revenue, informed the Committee that the Department, in the absence of legislative action, would value and apply the beneficial use tax on ski areas located on public land. Senator Foster asked Director Robinson what the Department's position would be if the Legislature exempted ski areas from the beneficial use tax. Director Robinson said that the Department would not take a position.[11]

The Committee requested that staff prepare draft legislation that would exempt certain recreational uses of public lands from the beneficial use tax. The Committee directed staff to provide for an exemption only in the case in which the use is nonexclusive.

At the Committee's September 19 meeting, Lee Heiman presented LC 0101, which would exempt recreational leases from the beneficial use property tax. In 15-1-101, MCA, "recreational" would be defined to mean hunting, fishing, swimming, boating, water skiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling. The bill would amend 15-24-1203, MCA, as follows:

> **15-24-1203. Privilege tax on industrial, trade, or other business use of tax-exempt property -- exceptions.** (1) There is imposed and must be collected a tax upon the possession or other beneficial use for industrial, trade, or other business purposes enjoyed by any private individual, association, or corporation of any property, real or personal, that for any reason is exempt from taxation. ~~The tax may not be imposed upon the possession or other beneficial use of buildings owned by public entities and located upon public airports. However, privately owned buildings located on public airport property are subject to tax. The tax may not be imposed upon the possession or other beneficial use of public lands occupied under the terms of mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates.~~

The tax is imposed upon the possession or other beneficial use of an electric transmission line and associated facilities, except that lines and facilities of a design capacity of less than 500 kilovolts are not subject to the tax.

(2) The tax may not be imposed upon:

(a) the possession or other beneficial use of railroad right-of-way or track owned by the United States or acquired by the state pursuant to Title 60, chapter 11, part 1, as long as the state or the United States retains ownership and the right-of-way or track is used exclusively for rail transportation;

(b) ~~The tax may not be imposed on~~ the beneficial use by a person of property held by a port authority, created under Title 7, chapter 14, part 11, or by a port authority owned by the United States or an agency of the United States, unless the port authority provides for the exclusive use of the property by the person;

(c) the possession or other beneficial use of public lands occupied under the terms of recreational, mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates; or

(d) the possession or other beneficial use of buildings owned by public entities and located upon public airports. However, privately owned buildings located on public airport property are subject to tax.

The bill would be effective on passage and approval and would apply retroactively to tax years beginning after December 31, 1996. The Committee voted unanimously that the bill be introduced by the request of the Committee.

ALLOCATION OF THE METAL MINES TAX

Introduction

Three bills (Senate Bill No. 46, Senate Bill No. 382, and House Bill No. 569) that affected the allocation of the metal mines license tax under 15-37-117, MCA, were passed and approved during the 1995 Legislative Session. The three bills were coordinated in an attempt to ensure the proper allocation of metal mines taxes. Unfortunately, the effect of a coordination instruction in Senate Bill No. 382 resulted in an overallocation of the metal mines tax effective July 1, 1997. For metal mines production occurring in calendar year 1997, 15.5% of metal mines taxes will be allocated to the resource indemnity trust fund. The amount that should be allocated is 8.5%. This section briefly summarizes recent

legislative history of the metal mines tax and diversions of the resource indemnity trust tax from the resource indemnity trust fund, gives options that would correct the overallocation, and reports on the Committee's action to correct the overallocation.

Recent History of the Metal Mines Tax

During the 1989 Regular Session, the Montana Legislature revised the taxation of metal mines (Ch. 672, L. 1989) and the allocation of revenue from the tax. Under the revised version of the tax, the gross value of product of concentrate in excess of $250,000 is taxed at 1.81% and the gross value of product of dore, bullion, or matte in excess of $250,000 is taxed at 1.6%. Previously, metal mines were taxed on increments of production in excess of $250,000 to more than $1 million at rates ranging from 0.5% to 1.5%. The legislation exempted metal mines production from the resource indemnity trust tax but provided an allocation of 15.5% of total collections to the resource indemnity trust fund.

During the 1991 Regular Session, the Legislature enacted Senate Bill No. 94 (Ch. 769, L. 1991), creating the ground water assessment program for the protection and management of ground water quality in Montana. The program is funded by the newly named resource indemnity trust and ground water assessment tax (14.1% of the proceeds from the tax). The use of the tax for a state program was the first diversion of the tax from the resource indemnity trust fund. Previously, all proceeds from the resource indemnity trust tax were deposited directly into the trust fund. Only interest earnings from the trust fund were available for certain state programs.

Beginning July 1, 1993, the Montana Bureau of Mines and Geology was authorized to spend up to $666,000 to administer the program. However, the program received significantly less than that amount because revenue from the resource indemnity trust tax was less than anticipated. In addition, there was no provision in the legislation that created the program to divert metal mines tax allocated to the resource indemnity trust fund to the ground water assessment account.

Senate Bill No. 46 (Ch. 31, L. 1995) was enacted to correct the technical oversight in the original legislation. The new legislation reduced the allocation to the resource indemnity trust fund from 15.5% to 13.3% and provided a

2.2% allocation to the ground water assessment account established under 85-2-905, MCA.

A similar problem occurred in 1993 when the Montana Legislature enacted House Bill No. 608 (Ch. 478, L. 1993). The purpose of this act was to allocate a portion of the resource indemnity trust and ground water assessment tax to the renewable resource grant and loan program (15% of the proceeds beginning July 1, 1993, and 10% of the proceeds beginning July 1, 1995) and to the reclamation and development grants account (15% of the proceeds beginning July 1, 1993, and 30% of the proceeds beginning July 1, 1995). However, the legislation did not divert revenue from the metal mines tax to the renewable resource grant and loan program or to the reclamation and development grants account. The legislation also made several revisions in the allocation of interest earnings from the trust fund.

As was the case with Senate Bill No. 46, House Bill No. 569 (Ch. 577, L. 1995) was enacted to correct a technical oversight in the original legislation. Except for an allocation to the ground water assessment account, the introduced version of House Bill No. 569 would have allocated an amount of the metal mines tax in the same proportion as the resource indemnity trust and ground water assessment tax is allocated in 15-38-106(2), MCA. The House of Representatives amended the bill to coordinate it with Senate Bill No. 46 to ensure that the metal mines tax allocated for resource indemnity trust tax purposes is distributed in the same proportion as other resource indemnity trust and ground water assessment taxes are distributed. The Senate removed the metal mines tax allocation to the renewable resource grant program (1.5%) and increased the allocation to the resource indemnity trust fund (from 7.2% to 8.5%) and to the reclamation and development grants program (from 4.6% to 4.8%). The Senate also voided the percentage allocation to the resource indemnity trust fund contained in Senate Bill No. 46.

The overallocation of the metal mines tax occurred with the enactment of Senate Bill No. 382 (Ch. 584, L. 1995). In part, Senate Bill No. 382 created a "mixed funding pilot program" for the voluntary cleanup of three sites from the Department of State Lands' (now the Department of Environmental Quality) abandoned hard-rock mine priority list. Under the pilot program, an owner of mining property is entitled to a reimbursement from the abandoned mines state special revenue account for eligible costs associated with the cleanup. Funding for the reimbursement is provided by 8.5% of the metal mines tax (the amount

that would have gone to the resource indemnity trust fund). However, the Legislature did not provide for an appropriation to pay for the program.

The coordination instruction in Senate Bill No. 382 voided the percentage allocation to the resource indemnity trust fund contained in House Bill No. 569. In addition, the mixed funding pilot program terminates June 30, 1997. As a result of these two amendments in Senate Bill No. 382, the allocation of the metal mines tax to the trust fund returns to 15.5%. Because of the oversight in the coordination of Senate Bill Nos. 46 and 382 and House Bill No. 569, the allocation of the metal mines tax is 107% of total collections. This ingenious method for creating money would likely be thwarted by the Department when it attempts to dole out the proceeds of the tax in the next biennium.

Recommendations

Committee staff presented three options to the Committee to correct the latest technical oversight. The most efficient approach would be to specify that 15.5% of the proceeds from the metal mines tax be allocated as provided in 15-38-106(2), MCA. The allocation of the metal mines tax for the purposes of the resource indemnity trust tax would occur in 15-38-106, MCA, and not in 15-37-117, MCA. The distribution of oil and natural gas production taxes under 15-36-324, MCA, for the purposes of the resource indemnity trust tax is allocated under 15-38-106, MCA. This would alleviate the problem of having to revise the metal mines tax allocations each time that there is a change in the diversion of the proceeds from the resource indemnity trust tax. This approach, however, would be contrary to the policy choice made by the 1995 Legislature when it eliminated the metal mines tax distribution to the renewable resource grant program. The next Legislature may also decide to continue the mixed funding mine cleanup program, in which case the generalized allocation may be cumbersome.

The most practical approach would be to reduce the allocation of the metal mines tax to the resource indemnity trust fund from 15.5% to 8.5%, effective July 1, 1997. That change would probably be consistent with legislative intent for the distribution of metal mines taxes. The Legislature would have to be watchful to ensure that similar technical oversights do not happen again.

Committee staff pointed out that the easiest approach would be to do nothing on the assumption that legislation will be introduced as a matter of course in which the problem will be corrected.

Committee Action

At the Committee's August 26 meeting, staff presented two bill drafts for correcting the overallocation of the metal mines tax. The first, LC 0077, would simply reduce the amount of the metal mines tax allocated to the resource indemnity trust fund from 15.5% to 8.5%. The second, LC 0077.02, would allocate 15.5% of the metal mines tax in the same manner as all other resource indemnity and ground water assessment taxes are allocated as provided in 15-38-106, MCA. At the time, the Committee concluded that it did not have enough information and postponed action until the next meeting. At the September 19 meeting, the Committee voted unanimously that LC 0077.02 be introduced by the request of the Committee.

RAILROAD CAR TAX SETTLEMENT AND TAX SETTLEMENT ISSUES

Railroad Car Tax Settlement

In January 1992, several railroad car companies sued in federal court, challenging Montana's freight line company tax on the grounds that the tax was discriminatory under the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act). The freight line tax imposed a 5.5% tax on the gross earnings of railroad car companies operating within the state. The tax was in lieu of all other taxes and was deposited in the state general fund. Because similar taxes in other states had been overturned, the Department requested legislation during the July 1992 Special Session to repeal the freight line company tax and to impose a statewide property tax on railroad car companies. At about the same time, a federal magistrate in Billings issued a decision that the freight line tax violated the 4-R Act.[12]

The Legislature enacted House Bill No. 24 (Ch. 10, Sp. L. July 1992) to tax railroad car company property as class twelve property. The new method of taxing railroad car companies applied to tax years beginning after December 31, 1990. Because the freight line tax had been overturned, the retroactive application of the new tax ensured that railroad car companies paid taxes in tax years 1991 and 1992. Revenue from the new tax is deposited in the state general fund.

The new tax was challenged by railroad car companies in May 1993 when the first payment of the tax became due. As was the case with the freight line tax, the railroad car companies claimed that the state's new method of taxing railroad cars violated federal prohibitions against discriminatory taxation under

the 4-R Act. The railroad car companies argued that the allocation mechanism and the retroactive application of the tax were illegal.[13] During the 1995 Legislative Session, Senator Del Gage introduced Senate Bill No. 257. The bill would have revised the value of railroad cars allocated to Montana based on speed (i.e., the number of railroad car miles traveled per day in the state). The purpose of the bill was to provide a framework for negotiations between the Department and the railroad car companies. The Legislature revised the original allocation method contained in Senate Bill No. 257. That change caused Governor Marc Racicot to veto the bill. In his veto message, the Governor wrote that the railroad car . . . "companies have unequivocally expressed their aversion to settle the case on the basis of the provisions of Senate Bill 257".[14]

U.S. District Court Judge Jack Shanstrom ordered a settlement conference between the Department and the affected railroad car companies, under the supervision of Judge Richard Anderson, federal Magistrate in Billings. At the March 29, 1996, Committee meeting, Mick Robinson informed the Committee that the Department had reached a tentative settlement with several railroad car companies regarding the taxation of railroad cars in the state.

Director Robinson presented a memorandum[15] in which he informed Governor Racicot that the Department had resolved the issues in ACF Industries, Inc. v. Department of Revenue, Cause No. CV-93-74, and had reached an agreement with the railroad car companies* concerning the taxation of railroad cars in Montana. According to the memorandum, the essential elements of the agreement included the following:

1. a refund of taxes, plus accrued interest, paid under protest by the railroad car companies for tax years 1991 and 1992. Taxes assessed in these tax years applied retroactively.

2. the adoption of the 100% speed approach to determine equivalent cars, by class, in Montana. The speed for intermodal and unit cars was set at 450 miles a day. The

* The other railroad care companies include Detroit Edison, GATX, GE Railcar, Railgon, TTX, and Union Tank.

speed for other railroad cars was set at 200 miles a day for tax years 1993 through 1995 and 250 miles a day for tax years 1996 through 2002.

3. an adjustment to the statewide average mill levy for commercial and industrial property. For tax years 1993 through 1995, the mill levy would be 90% of the commercial and industrial levy. For tax years 1996 through 2002, the mill levy would be 95% of the commercial and industrial levy.

Under the agreement, the railroad car companies would receive a refund of approximately $3.1 million, plus accrued interest, for tax years 1991 and 1992. In the order granting summary judgment, issued October 13, 1995, Judge Shanstrom ruled that the Department could not collect railroad car taxes assessed retroactively against the railroad car companies. The judge ordered a refund of those taxes. As part of the settlement, the Department agreed to withdraw its appeal of the summary judgment to the Ninth Circuit Court of Appeals. Also under the agreement, the state general fund would receive $4.8 million, plus accrued interest, for taxes paid under protest in tax years 1993 through 1995. In addition, the Department estimated that tax receipts for tax year 1996 would amount to $1.7 million.

The Department, however, withdrew from the settlement following the U.S. Supreme Court decision in Seminole Tribe of Florida v. Florida, ___U.S.___, 134 L. Ed. 2d 252, 116 S. Ct. 1114 (1996). The decision addressed the issue of whether an Indian tribe may sue a state in federal court to enforce certain provisions of the Indian Gaming Regulatory Act, passed by Congress pursuant to the Indian Commerce Clause. Under the Act, states have a duty to negotiate with a tribe "toward the formation of a compact" that would allow the Indian tribe to conduct certain gaming activities in the state. If a state does not negotiate a compact in good faith, an Indian tribe may, under 25 U.S.C. 2710(d)(7), bring action in federal court. The U.S. Supreme Court held that the 11th amendment* to the U.S. Constitution "prevent[s] Congress from

* The 11th amendment to the U.S. Constitution provides: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

authorizing suits by Indian tribes against States . . . to enforce legislation enacted pursuant to the Indian Commerce Clause". The decision noted that the Supreme Court has allowed the abrogation of a state's 11th amendment immunity under only two constitutional provisions: the 14th amendment and the Interstate Commerce Clause as decided in Pennsylvania v. Union Gas Co., 491 U.S. 1, 105 L. Ed. 2d 1, 109 S. Ct. 2273 (1989). The Court concluded, however, that Union Gas was a departure from "established law" and that the decision was wrongly decided. The Court, in fact, overruled Union Gas in Seminole.

Although Seminole addressed the narrow issue of Indian gaming, the overruling of Union Gas has broader implications regarding lawsuits against states in federal court. On first blush, the decision apparently prevents federal court jurisdiction in the railroad car issue. Accordingly, as previously noted, the Department withdrew from the settlement and filed a motion in federal District Court to dismiss the entire case. Conversely, the railroad car companies filed a motion to amend their complaint to name the Director of the Department as defendant so that the case could proceed in federal court.

At a May 17, 1996, hearing in Billings, Judge Shanstrom granted a preliminary injunction against collection of the tax by the Department. In addition, the judge set a hearing date for June 25, 1996, to consider oral arguments regarding the separate motions of the parties. However, during a conference call with the parties on May 25, 1996, Judge Shanstrom denied the Department's motion to dismiss on the grounds that the state had implicitly waived its 11th amendment immunity by agreeing to the settlement. At the same time, the railroad car companies withdrew their motion to amend. Judge Shanstrom issued a formal decision denying the Department's motion to dismiss.* At the October 18, 1996, meeting, Director Robinson, informed the Committee that the Department had signed the previously negotiated agreement with the railroad car companies.

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* In a separate class action lawsuit involving several, smaller railroad car companies, Judge Shanstrom dismissed the Department of Revenue as a party to the case but allowed the railroad car companies to amend the complaint to name Mick Robinson as defendant (Chrysler Rail Transportation v. Department of Revenue, Cause Nos. CV 93-080-BLG-JDS and CV 93-207-BLG-JDS).

Statutory Authority to Enter Into Tax Settlements

Also at the March 29 Committee meeting, Greg Petesch, Director, Legal Services Office, Legislative Services Division, reviewed several issues related to the railroad car settlement, in particular, and generally discussed the scope of the authority of the Department to enter into tax settlements. The following summarizes the issues identified by Mr. Petesch:

1. The railroad car settlement is in effect through tax year 2002. The state has established how it will tax railroad cars through a settlement agreement that will span three legislative sessions. To that extent, the Legislature should be concerned about the authority of the Department to bind the state for future time periods.

2. The Department revised the statutory mill levy to be used in taxing railroad cars. It is a general rule of administrative law that agencies may not, through administrative procedures, change statutes. To the extent that settlement agreements are unique, the general rule may be legitimate. However, the Department could have established a method of resolving tax liability without attempting to negotiate a tax rate.

3. The Legislature should be concerned because of the scope of authority that the Legislature has granted to the Director of the Department to enter into settlement agreements. There is no requirement in statute that a settlement be limited to a disputed tax or that taxes be paid under protest. The agreement demonstrates the broad delegation of authority to settle with taxpayers who can persuade the Department to enter into an agreement with them. For example, a taxpayer could negotiate a settlement on income tax rates and the Department would be bound by that agreement.[16]

With respect to point 1 above, the Department essentially exercised legislative prerogatives by settling prospectively and by agreeing to a "termination" date for the tax. The state may have been better served had the Department settled on prior tax years and presented legislation to the 1997 Legislature for

prospective taxes. Any proposed legislation could have contained the essential elements of the agreement but would have ensured appropriate legislative deliberation.

With respect to point 2 above, the Department apparently reinterpreted a statutory provision regarding the applicable mill levy. Section 15-23-211(1), MCA, provides that the ""[a]verage levy" means the average statewide rate of taxation on commercial and industrial property". At the March 29 meeting, Director Robinson argued that the proper interpretation of the "average levy" means that the statewide average mill levy for commercial and industrial property has to be adjusted to reflect the average levy for other railroad property.[17] The rationale for that interpretation was the fact that railroad cars are not operated in every county.

When the new method of taxing railroad cars was passed during the July 1992 Special Session (Ch. 10, Sp. L. July 1992), the levy applied to railroad cars was the average statewide levy assessed against motor vehicle fleets under 15-24-103, MCA. During the 1993 Regular Session, the House Taxation Committee introduced a Committee bill (House Bill No. 640), at the request of the Department, to revise the definition of the average levy to what it now is under current law. Department testimony and the fiscal note presented in support of the bill did not demonstrate that the average industrial and commercial levy included a specific adjustment to reflect the tax rate on other railroad property. The bill was enacted as introduced (Ch. 532, L. 1993).

To reiterate the point made by Mr. Petesch, the Department could have devised a method of resolving tax liability by means other than a negotiated tax rate. For example, the Department, under its rather broad rulemaking authority in 15-23-213(2), MCA, could have negotiated, for settlement purposes, a different speed formula for the various types of railroad cars that could have achieved basically the same result. By pursuing such an alternative, the Department could have accomplished its objectives without usurping, perhaps unconstitutionally, legislative authority.

With respect to point 3 above, 15-1-211, MCA, authorizes the Department to enter into negotiated settlements. This section was enacted in 1991 (Ch. 811, L. 1991). The relevant provisions of the section under discussion are:

15-1-211. (Temporary) Uniform tax review procedure -- notice -- appeal. (1) The department of revenue shall provide a uniform tax review procedure for all taxpayers, except as provided in subsection (1)(a).

(a) The tax review procedure described in this section applies to all taxes administered by the department except inheritance taxes, estate taxes, and property taxes. **The procedure applies to any revised assessment of centrally assessed property taxed pursuant to chapter 23.** (Emphasis added)

(b) The term "taxpayers", as used in this section, includes all persons determined by the department to have a potential tax liability.

. . . (8) (a) **The director of revenue or his designee is authorized to enter into an agreement with any taxpayer relating to the taxpayer's liability with respect to a tax administered by the department for any taxable period.**

(b) An agreement under the provisions of subsection (8)(a) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. (Emphasis added)

The language contained in subsection (8) regarding "an agreement with any taxpayer relating to the taxpayer's liability . . . for any taxable period" implies that an agreement could cover taxes that already have been assessed or that may be assessed in the future. The text of ARM 42.2.611 refers to disputed taxes for settlement purposes. It also states that "[a] settlement is not binding on the taxpayer or the department concerning other tax years or other taxpayers". Under the Department's own rule, it would seem that the settlement must cover a disputed tax--that is, a tax liability already incurred.

Settlements of disputed taxes that involve specific dollar amounts or that involve other types of arrangements outside statutory provisions are common and compatible with established administrative procedures. In that regard, the provisions of 15-1-211(8)(b), MCA, that prohibit reopening the matter or annulling the agreement are appropriate. However, when those prohibitions

apply to a prospective tax settlement, legislative power is diminished. It is the Legislature's responsibility to enact defensible tax policy and that responsibility should not be diminished.

Recommendations

The 4-R Act limits the states' ability to tax railroad property. The states' methods of taxing railroad property have been routinely challenged in federal courts. It is possible that the federal courts would have invalidated Montana's railroad car tax. Given the Department's assessment of the likelihood of that occurrence, it was appropriate to enter into an agreement with the railroad car companies, particularly with respect to prior year taxes. Under current law, the Department also has the authority to settle prospectively. The Legislature should be concerned about Executive Branch abrogation of legislative authority regardless of the issue.

Committee staff recommended that the Committee consider two separate changes to existing law to deal with the issues raised by the railroad car settlement. The first would be to clarify the definition of the average levy, specified in 15-23-211, MCA, as applied to railroad car property. The other would be to revisit 15-1-211, MCA, to determine whether the Legislature granted appropriate powers to the Department. In particular, staff asked whether the Committee wanted to consider legislation that would limit the Department's authority to enter into tax settlements that involve only disputed or protested taxes.

Committee Action

At the June 24 meeting, the Committee requested draft legislation to revise the average mill levy applied to railroad car property and to limit the authority of the Department to enter into prospective tax agreements.

Revised definition of average levy: Committee staff presented one bill draft (LC 0078.01) that would clarify that the average mill levy applied to railroad car property is the average statewide levy for commercial and industrial property. The other bill draft (LC 0078.02) would clarify that the average mill levy applied to railroad car property is the average statewide levy applied to railroad transportation property, other than railroad car property. At its September 19 meeting, the Committee asked Dave Woodgerd which proposal the Department would prefer as a negotiating tool with the railroad car companies. Mr. Woodgerd said that the average mill levy applied to other railroad property

would be more in line with the agreement that was part of the original settlement. The average mill levy applied to commercial and industrial property corresponds to what the Department assumed was the law and "may have some advantage until the Department sees what happens with the current lawsuits".[18] The Committee voted to adopt LC 0078.01.

At the October 18, 1996, meeting, Director Robinson informed the Committee that the Department had decided not to appeal Judge Shanstrom's denial of the Department's motion to dismiss and had signed the tax settlement with the railroad car companies. As a result, the Committee suspended its previous approval of LC 0078.01 until its final meeting.

Limit authority of Department to enter into prospective tax settlements: At the August 26, 1996, meeting, staff presented a bill draft (LC 0079) that would revise the conditions under which the Department may enter into tax agreements with taxpayers. The bill would amend 15-1-211, MCA, and would generally limit agreements to instances in which a taxable event has occurred. The bill would allow the Department to enter into agreements related to the method of filing tax returns. The method of filing agreements for tax returns could be prospective in nature.

Director Robinson told the Committee that tax settlements involve complex issues and that the Department needs "more tools" for the purposes of tax administration. He said that settlement issues related to the taxation of corporate net income (e.g., method of filing and nexus and apportionment), the taxation of centrally assessed property (e.g., method of property valuation), and the taxation of natural resources (e.g., the valuation of extracted mineral) often require that certain matters be agreed to prospectively. Absent the flexibility to settle prospectively, many more tax disputes would have to be resolved through litigation.[19] Terry Cosgrove, Attorney, Crowly Haughey Hanson Toole & Dietrich, said that the authority of the Department to settle prospectively is very important. He said that the certainty of the tax is often more important than the amount of the tax. Prospective agreements allow taxpayers to plan for the future.[20]

Based on the foregoing testimony, the Committee decided to take no action on the bill draft.

COAL SEVERANCE TAX LITIGATION

At the November 17, 1995, meeting, Clay Smith, Solicitor, Montana Department of Justice, reported on the latest round of litigation related to the Crow Indian Tribe lawsuit for refund of coal severance taxes and coal gross proceeds taxes. The lawsuit has a long and complicated history dating back to 1978 when the Crow Tribe filed for a declaration that Montana's coal severance tax and coal gross proceeds taxes were preempted by federal law for coal produced on the Crow Indian Reservation as well as on the Ceded Strip. The Ceded Strip, originally part of the reservation, was opened to homesteading by an act of Congress in the first decade of this century. The mineral rights, however, remained with the tribe. In January 1983, the U.S. District Court in Billings required that coal severance taxes imposed on Westmoreland Resources, Inc., for coal produced on the Ceded Strip be deposited in an escrow account until the lawsuit was settled. In 1987, the court provided the same relief with respect to coal gross proceeds taxes. Also in that year, the Ninth Circuit Court of Appeals held that Montana's coal taxes imposed against coal production on the Ceded Strip were invalid. As a result, severance tax payments of about $23.4 million and coal gross proceeds tax payments of a little over one-half million dollars, plus accumulated interest, were turned over to the tribe from the escrow accounts.

However, the tribe is still seeking restitution for severance taxes paid between 1976 and 1983 and for coal gross proceeds taxes paid to Big Horn County between 1975 and 1987. In addition, the tribe is seeking damages for economic loss associated with the cancellation of a lease agreement with Shell Oil that the tribe claims was caused by the imposition of coal taxes.

Mr. Smith said that in November 1994, Judge Shanstrom dismissed the tribe's claim for retroactive relief for coal taxes paid by Westmoreland and for damages associated with cancellation of the lease with Shell Oil. The Crow Tribe appealed that decision to the Ninth Circuit Court of Appeals. Mr. Smith also described the fiscal impact related to the principal amount of taxes in dispute plus prejudgment interest. As of March 31, 1994, the total amount that could be refunded to the tribe for the coal severance tax would be $264 million and for the coal gross proceeds tax would be $52.8 million.

At a subsequent meeting (August 26, 1996), Mr. Smith informed the Committee that a three-member panel of the Ninth Circuit Court of Appeals

reversed the U.S. District Court denial of relief to the Crow Indian Tribe for the restitution of taxes paid by Westmoreland. The court, however, affirmed the denial of the claim that the state, by imposing the coal severance tax, had interfered with the Crow Tribe's contractual and business relationship with Shell Oil for the development of a coal mine on the reservation. The case was remanded to the U.S. District Court in Billings for determination of prejudgment interest on the taxes paid. According to figures provided by Mr. Smith, the total liability to the State of Montana for the restitution of coal severance taxes and coal gross proceeds taxes could be in excess of $300 million.[21]

Mr. Smith told the Committee that the state will request a rehearing of the opinion before an en banc panel of the Ninth Circuit Court. He said that the state and Big Horn County have substantial defenses, as a matter of law, to the restitution claim. In addition, the panel did not address the state's defense that the tribe is not entitled to tax money that it did not pay. According to Mr. Smith, only an en banc panel may address that issue. If the state is not granted a rehearing, it will appeal to the U.S. Supreme Court.

The Committee asked how restitution would be accomplished if the state loses and whether Big Horn County would be liable for the restitution of coal gross proceeds taxes. Mr. Smith said that the state could tap the coal severance tax trust fund* or impose a separate tax. Mr. Smith said that he did not know who would have legal responsibility to repay coal gross proceeds taxes. John Doyle, Commissioner, Big Horn County, requested that the state assist Big Horn County if the Crow Tribe prevails. Rod Svee, Superintendent of Schools, Hardin, said that a number of court cases have considered as state money coal gross proceeds taxes paid on coal mined on the Crow Indian Reservation.[22]

Mr. Smith informed Committee staff that the petition for rehearing has been accepted for filing.[23] The full membership of the Ninth Circuit Court of Appeals must vote to determine whether a rehearing en banc is granted. The restitution of coal severance taxes and coal gross proceeds taxes may not have to be considered by the 55th Legislature. However, if the Crow Indian Tribe ultimately prevails, the state will be faced with the daunting and contentious task of repaying taxes collected long ago, as well as accrued interest. 6345loxa.

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* Principal on the trust fund may not be expended unless appropriated by three-fourths of the members of each house of the Legislature.

ENDNOTES

1. Letter from Patrick E. Melby, Luxan & Murfitt, to George Willett, Showdown Ski Area, April 25, 1995, p. 4.

2. Memorandum Opinion (REV/OLA 95-05) from Paul Van Tricht, Tax Counsel, Office of Legal Affairs, Department of Revenue, to Mary Whittinghill, Administrator, Property Assessment Division, Department of Revenue, September 12, 1995.

3. See Memorandum (Application of Beneficial Use Tax to Ski Areas) from Lee Heiman, Staff Attorney, to the Revenue Oversight Committee, February 2, 1996, pp. 1-4, in Minutes, Revenue Oversight Committee, February 2, 1996, EXHIBIT #9.

4. House Ways and Means Committee, Minutes, January 1, 1969, p. 1.

5. Heiman, op. cit., p. 4.

6. Senate Taxation Committee, Minutes, February 17, 1993, p. 1.

7. Senate Taxation Committee, Minutes, March 4, 1993, p. 11.

8. Possessory Interest Taxation in Other States: Interim Summary of Survey Responses (Albany, NY: New York State Division of Equalization and Assessment, November 11, 1992).

9. Sheldon Drapper, Property Tax Division, Utah Tax Commission, telephone conversation, January 26, 1996.

10. Heiman, op. cit.

11. Minutes, Revenue Oversight Committee, August 26, 1996, pp. 17 and 18.

12. Memorandum (Rail Car Tax Report) from Mick Robinson, Director, Department of Revenue, to the Revenue Oversight Committee, January 30, 1996.

13. Ibid.

14. Governor Marc Racicot, letter (veto message of Senate Bill No. 257) to President of the Senate Bob Brown and Speaker of the House John Mercer, May 12, 1995.

15. Memorandum (Settlement of ACF Industries, Inc. v. Dept. of Revenue) from Mick Robinson to Governor Marc Racicot, March 13, 1996, in Minutes, Revenue Oversight Committee, March 29, 1996, EXHIBIT #6.

16. Minutes, Revenue Oversight Committee, March 29, 1996, Montana Legislative Services Division, pp. 19 and 20.

17. Minutes, Revenue Oversight Committee, March 29, 1996, p. 20.

18. Minutes, Revenue Oversight Committee, September 19, 1996, p. 15.

19. Minutes, Revenue Oversight Committee, August 26, 1996, pp. 20 and 21.

20. Ibid, p. 21.

21. Ibid, p. 3.

22. Ibid., pp. 5 and 6.

23. Clay Smith, Solicitor, Montana Department of Justice, telephone conversation, November 7, 1996.

APPENDIX A

MOTOR VEHICLE TAXATION GROUP

Project Team:

Jeff Martin, Staff, Revenue Oversight Committee
Marcia Ala, Licensing and Permitting Bureau, Department of Transportation
Sharon Ferguson, Property Assessment Division, Department of Revenue
Bud Schoen, Registrar of Motor Vehicles, Department of Justice
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Advisory Group:

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> Steve Turkiewicz, Executive Director, Montana Automobile Dealers Association
> Dan Wirak, Mergenthaler's Transfer and Storage Co.
Ben Havdahl, Executive Vice President, Montana Motor Carriers Association
Bob Gilbert, Montana Tow Truck Association
Dale Clark, Montana Grain Growers Association

Governmental Agencies

David Galt, Motor Carrier Services Division, Department of Transportation
Dean Roberts, Motor Vehicle Division, Department of Justice
Mary Whittinghill, Property Assessment Division, Department of Revenue
Randy Wilke, Property Assessment Division, Department of Revenue
Stan Hughes, Montana Treasurers Association

> Denotes also member of project team

APPENDIX B

AN ALTERNATIVE APPROACH TO TAXATION OF LIGHT CARS AND TRUCKS IN MONTANA

Office of Research and Information
Montana Department of Revenue

July 15, 1996

AN ALTERNATIVE APPROACH TO TAXATION OF LIGHT CARS AND TRUCKS IN MONTANA

Introduction

Under current law, light cars and trucks are taxed for property tax purposes on the basis of "Blue Book" values. This requires reestablishing the value of each vehicle each year. Current approaches to simplifying the taxation of light cars and trucks in Montana have focused on applying a depreciation schedule to the manufacturer's suggested retail price (MSRP), and then applying a 2% tax rate to the depreciated value. This greatly simplifies taxation in that only one value is associated with each vehicle over its lifetime, the MSRP.

Recent attempts at this approach have generally applied a single, arbitrary depreciation schedule for all vehicle types over a ten-year period. While overall revenue neutrality is attainable under this approach, the use of a single depreciation schedule limited to a ten-year period results in shifts in tax liability between vehicle types, as well as between vehicle age groups.

This paper presents an altemative approach to taxing light cars and trucks that is designed specifically to optimize *property tax* revenue neutrality overall, across vehicle types, and across vehicle age groups. As the following analysis shows, this also results in a very high degree of property tax revenue-neutrality across counties in Montana, as well.

Also, previous proposals have attempted to maintain revenue neutrality overall for the combined revenue from both the new car sales tax and the property tax on used vehicles. This analysis recognizes that these are two fundamentally different taxes, and treats each separately. Revenue from the new car sales tax accrues to the state highway account, while revenue from the property tax on used vehicles is distributed to state and local governments in proportion to relative state and local mills levied on personal property.

Motor Vehicle Database

Data for the analysis was obtained from Department of Justice computer files on light cars and trucks. Once vehicles not pertinent to the analysis had been excluded from the database, a sample of one out of every five vehicles was drawn for the analysis. This resulted in a total of 117,327 observations in the sample data set. This extremely large sample was drawn to ensure statistical veracity overall; but also within vehicle types, across age groupings, and across counties.

New Car Sales Tax

Under current law "new" vehicles are taxed at the rate of 1.5% of market value, as specified by the dealer. In order to make the system of taxing motor vehicles as simple as possible,

this proposal applies the new car sales tax rate of 1.5% to the MSRP, rather than the market value as specified by the dealer, in order to maintain the principle of one value associated with each vehicle over the life of the vehicle. As the following analysis shows, this will result in a revenue loss for the new car sales tax.

Table 1 shows current law information for all vehicles in the database that paid new car sales tax in 1995. Almost 33,000 vehicles paid new car sales tax. These vehicles had a total market value of $631 million and paid $9.2 million in tax, for an effective tax rate of 1.46 percent. (The effective rate is below 1.5% because new vehicles registered as part of rental fleets are taxed at 0.75%, and certain other vehicles are taxed on rates prorated relative to 1.5% depending on the calendar quarter in which they are purchased. The effective rate is lowest for passenger cars, probably because a larger proportion of these vehicles are registered as part of rental fleets.)

Table 1
Current Law New Car Sales Tax Data

Vehicle Type	Number	Market Value	CL Sales Tax	Effective Tax Rate
Passenger Car	12,995	230,535,481	3,276,628	1.42%
Light Trucks	12,435	231,288,275	3,439,183	1.49%
Vans	2,785	55,313,771	807,028	1.46%
Sports-Utility	4,725	113,873,496	1,694,531	1.49%
All Vehicles	32,940	631,011,023	9,217,370	1.46%

Table 2 shows the revenue that would be generated if the effective new car sales tax rate was applied to the vehicle's MSRP. Revenue is reduced across all vehicle types, but particularly so for light trucks, where the revenue loss approaches a half a million dollars and represents a nearly 12% reduction.

Table 2
New Car Sales Tax Revenue Loss Using MSRP and Current Law Tax Rate

Vehicle Type	MSRP	PL Sales Tax	Change in Tax	% Change
Passenger Car	227,370,465	3,231,643	(44,985)	-1.37%
Light Trucks	203,965,700	3,032,905	(406,278)	-11.81%
Vans	53,882,385	786,144	(20,884)	-2.59%
Sports-Utility	107,617,425	1,601,436	(93,095)	-5.49%
All Vehicles	592,835,975	8,659,735	(557,635)	-6.05%

Table 3 shows the total number of vehicles paying new car sales tax in 1995, and the number and percentage of new cars whose current law market value used for tax purposes is greater than the vehicle's MSRP. Nearly two-thirds of all vehicles have an MSRP that is lower than the value currently used for tax purposes. For trucks, 86% have an MSRP that is lower than the value currently used for tax purposes. Apparently, trucks command a premium price in Montana relative to the MSRP.

Table 3
New Cars with Current Law Market Value Greater Than MSRP

Vehicle Type	Number	Number With Market Value Greater Than MSRP	Percent With Market Value Greater Than MSRP
Passenger Car	12,995	6,035	46%
Light Trucks	12,435	10,700	86%
Vans	2,785	1,385	50%
Sports-Utility	4,725	3,140	66%
All Vehicles	32,940	21,260	65%

The following general observations can be made with respect to a proposal for applying the new car sales tax to MSRP:

1) ***two-thirds of all new vehicles, and 86% of light trucks, have an MSRP that is lower than the market value currently used for new car sales tax purposes,*** and, consequently;

2) two-thirds of all new vehicles, and 86% of light trucks, would experience a reduction in tax liability if the current law new car sales tax rate is applied to MSRP;

3) applying the current law new car sales tax rate to MSRP results in a tax reduction of about $560,000 annually to owners of new cars (at current prices and buying rates), and a similar reduction in revenue to the state highway accounts; and

4) applying the new car sales tax to MSRP would require an increase in the tax rate from 1.5% to 1.55% to maintain revenue neutrality.

Property Tax on "Used" Vehicles

Currently, used motor vehicles are taxed at 2% on the basis of current year market value, where market value is measured by the average trade-in or wholesale value contained in annual editions of the N.A.D.A. Official Used Car Guide (Blue Books). This requires the annual reassessment of vehicles for tax purposes. Recent proposals to simplify the system of taxing motor vehicles contemplate the use of a single value, the MSRP, for the life of the vehicle, coupled with an appropriate depreciation schedule and tax rate to achieve revenue neutrality.

Recent analyses to achieve this goal have generally utilized an arbitrary, ten-year depreciation schedule applied to all vehicles, regardless of type. This has always resulted in a certain amount of shifting of liability not only between vehicle types but also across vehicle age groups. The goal of the current proposal is to minimize this shifting of liability, with the attendant goal of also minimizing the impact across local governments.

The underlying notion behind the approach taken here is that if separate depreciation schedules for each vehicle type can be developed that reflect current market conditions, then no shifting of liability should occur. Separate depreciation schedules for each vehicle type should minimize shifting across vehicle types. Also, if the proposed depreciation schedules cover a sufficient number of years, then shifting of liability across vehicle age groups should also be minimized.

In other words, the proposed depreciation schedules should mirror the current market depreciation schedules as accurately as possible, while maintaining revenue neutrality. To determine the current depreciation schedules implicitly defined by Blue Book values, note that current law tax liability is defined as the product of market value and the tax rate:

$$\text{CL TAX} = \text{MARKET VALUE(MV)} \times \text{TAX RATE (2\%)}$$

Note also that the proposed law liability is defined as the product of MSRP, the depreciation rate, and the tax rate:

$$\text{PL TAX} = \text{MSRP} \times \text{DEPRECIATION RATE (DR)} \times \text{TAX RATE (2\%)}$$

Revenue neutrality requires equating current law tax with proposed law tax:

$$0.02MV = 0.02(MSRP)(DR)$$

Canceling the tax rate from both sides of the equation, and rearranging terms results in the formula for the current revenue-neutral depreciation rate:

$$\textbf{DEPRECIATION RATE} = \textbf{MARKET VALUE/MSRP}$$

In other words, the current market conditions depreciation schedule for each vehicle is simply the ratio of its current market value divided by its original MSRP. The average depreciation schedule for each vehicle type is determined by taking the ratio of total market value to total MSRP for each year of data available in the Department of Justice database (up to 17 years). Table 4 shows, by vehicle type, the ratio of total market value to total MSRP for a 17-year period. Figure 1, following page, provides a chart of the depreciation schedules from Table 4.

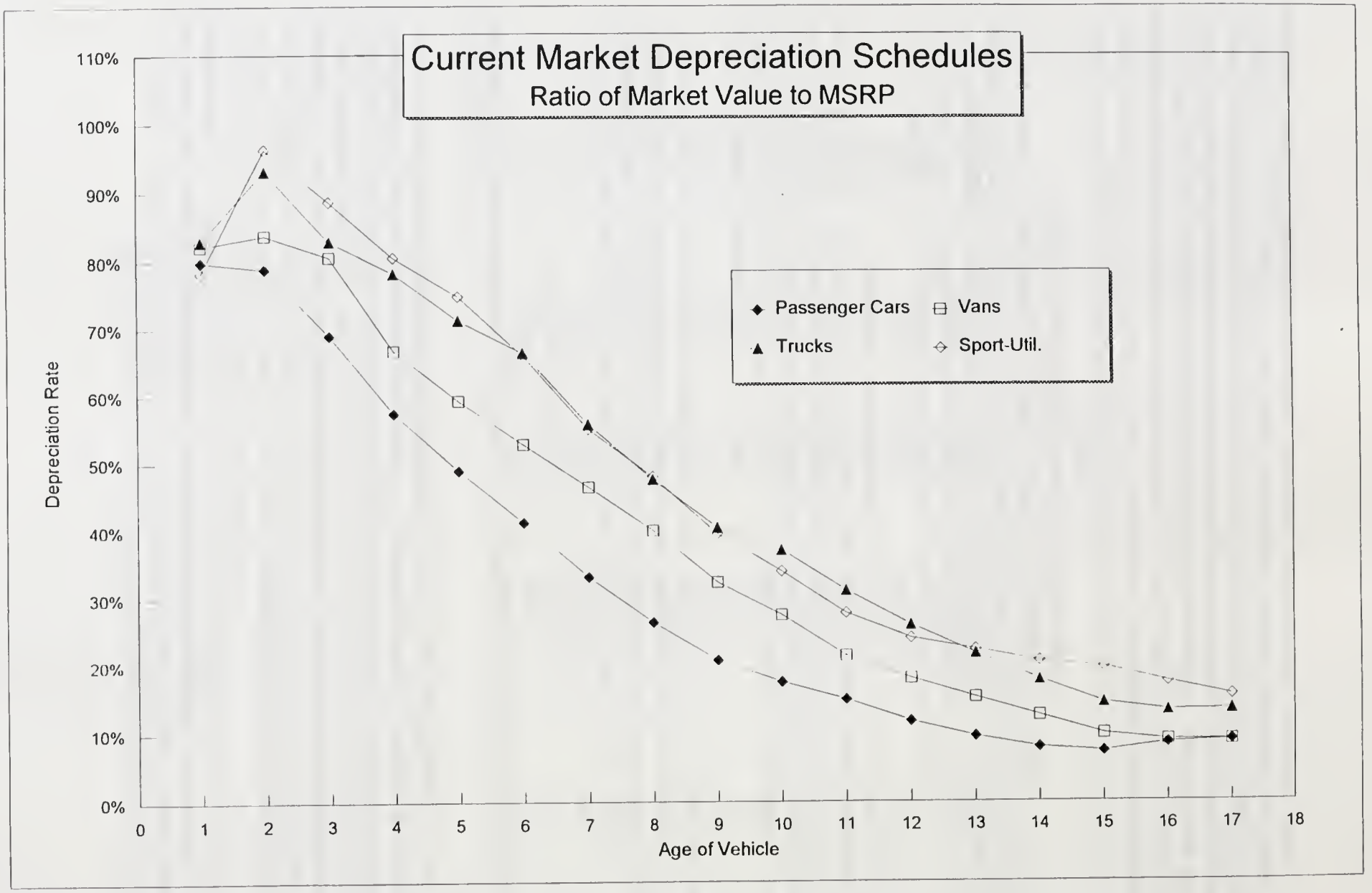
Table 4
Current Market Conditions Depreciation Schedule
Measured as the Ratio of Market Value to MSRP, by Vehicle Type

Year	Passenger Cars	Trucks	Vans	Sport-Utility
1	0.81	0.83	0.82	0.78
2	0.79	0.93	0.84	0.96
3	0.69	0.83	0.81	0.89
4	0.57	0.78	0.67	0.80
5	0.49	0.71	0.59	0.75
6	0.41	0.66	0.53	0.66
7	0.33	0.56	0.46	0.55
8	0.26	0.48	0.40	0.48
9	0.21	0.40	0.32	0.39
10	0.17	0.37	0.27	0.34
11	0.15	0.31	0.21	0.28
12	0.12	0.26	0.18	0.24
13	0.09	0.22	0.15	0.22
14	0.08	0.18	0.13	0.21
15	0.07	0.14	0.10	0.20
16	0.09	0.13	0.09	0.17
17	0.09	0.13	0.09	0.15

Several observations can be drawn from Table 4 and Figure 1. First, over the 17-year period available in the database it appears that vehicles currently depreciate to approximately 10% of their value after 13 to 17 years, depending on vehicle type. Sport-utility vehicles depreciate to 15% of their value after 17 years. (Previous proposals had all vehicles depreciating to about 10% of their value after only ten years, resulting in a revenue shift away from older to newer vehicles; particularly trucks, which are still worth 37% of their MSRP after 10 years, on average.)

Second, it is apparent that current market conditions provide for significantly different rates of depreciation, depending on the vehicle type. Passenger cars depreciate faster than other types of vehicles; vans depreciate slower than passenger cars, but faster than trucks and sport-utility vehicles, which depreciate at about the same rate.

Figure 1


Current Market Depreciation Schedules
Ratio of Market Value to MSRP
Depreciation Rate
110%
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
Age of Vehicle
Passenger Cars
Vans
Trucks
Sport-Util.

Finally, with the exception of passenger cars, all vehicles, on average, depreciate to about 80% of their value in the first year after purchase, but then increase in value relative to MSRP in the second year after purchase. This phenomenon can only be characteristic of current Blue Book and Department of Revenue depreciation practices and standards, as MSRP remains constant through time.

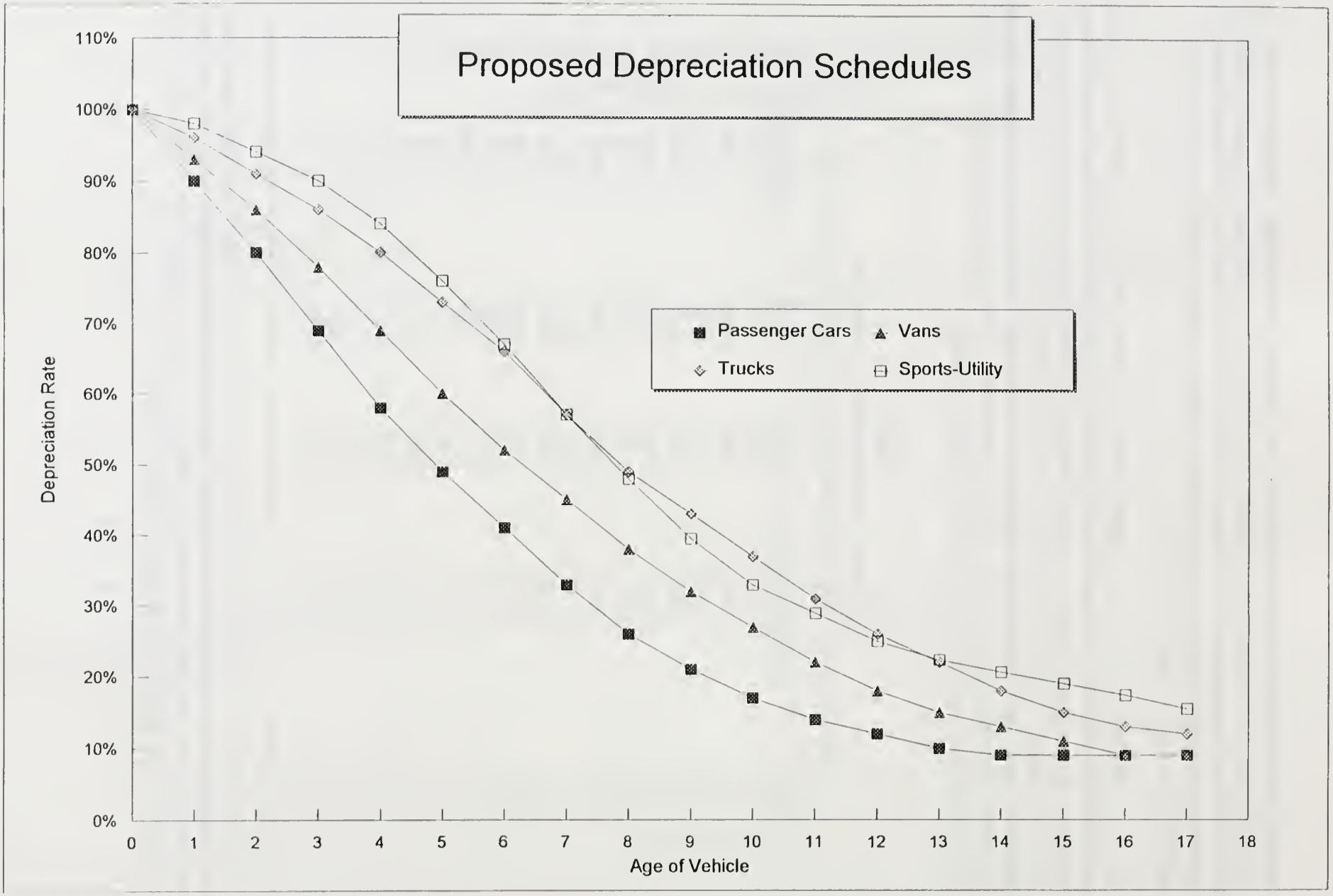
Once current market condition depreciation schedules had been estimated, it was necessary to develop proposed law depreciation schedules that appeared logical while providing for revenue neutrality overall, across vehicle types, and across age groups. Smooth curves that provided for taxation at 100% of MSRP for new cars, and a depreciated value for used cars that declined logically over time were fit to the actual current market condition depreciation schedules. These depreciation schedules are presented in Table 5, and are shown graphically in Figure 2 (following page).

Table 5
Proposed Law Depreciation Schedules
Based on the Ratio of Market Value to MSRP, by Vehicle Type

Year	Passenger Cars	Trucks	Vans	Sport-Utility
0	1.00	1.00	1.00	1.00
1	0.90	0.96	0.93	0.98
2	0.80	0.91	0.86	0.94
3	0.69	0.86	0.78	0.90
4	0.58	0.80	0.69	0.84
5	0.49	0.73	0.60	0.76
6	0.41	0.66	0.52	0.67
7	0.33	0.57	0.45	0.57
8	0.26	0.49	0.38	0.48
9	0.21	0.43	0.32	0.39
10	0.17	0.37	0.27	0.33
11	0.14	0.31	0.22	0.29
12	0.12	0.26	0.18	0.25
13	0.10	0.22	0.15	0.22
14	0.09	0.18	0.13	0.21
15	0.09	0.15	0.11	0.19
16	0.09	0.13	0.09	0.17
17+	0.09	0.12	0.09	0.15

The proposed law depreciation schedules follow the current market condition schedules with the general exception that the rate in the first year after purchase of a new car does not drop to 80% and then rise in the second year. Depreciation rates consistently drop throughout the proposed law depreciation schedules.

Figure 2


Proposed Depreciation Schedules
Depreciation Rate
110%
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
Age of Vehicle
Passenger Cars
Vans
Trucks
Sports-Utility

Results of the Proposed Law Depreciation Schedules

Attachments 1 through 4 show the impacts that this approach has on light car and truck property taxes. As those attachments indicate, the presumption that separate market-based depreciation schedules extending over a 17-year period of time result in little or no shifting of tax liability across vehicle type, or vehicle age group is borne out. The share of total liability paid across vehicle types, and age groups does not change from current law to the proposal. No vehicle type, within any age group, has an average tax per vehicle change of more than $4, and the largest percentage change in average tax of -9% for trucks age 16 years and older represents only a $1 change in tax.

Finally, Attachment 4 shows that this approach is also very close to providing revenue neutrality across all counties. The dollar and percentage changes in liability from county to county are very small, resulting in very small average dollar changes in tax liability per vehicle as well. Overall, this approach results in property tax revenue neutrality from all perspectives.

"Spiking" Issues

As discussed earlier, new vehicles are subject to a new car sales tax of 1.5% of market value. In following years these vehicles are subject to property tax equal to 2% of market value. Generally, this results in an increase in the tax paid on a vehicle in the year after being purchased new, which has come to be known as "the spike." For example, take a new car purchased for $15,000. The new car sales tax is $225 ($15,000 X 1.5% = $225). The next year the Blue Book value drops to $12,000 but because the vehicle is now subject to an entirely different tax, the property tax, the tax bill increases to $240 ($12,000 X 2% = $240).

Attachment 5 illustrates spiking effects under current law and under the proposal presented here. The average effective tax rates are relative to the price of the car purchased new. Spike effects are illustrated for passenger cars, trucks, and sport/utility vehicles. For passenger cars, under current law, a spike occurs in the year after purchase, and while effective tax rates continue to fall thereafter, the effective tax rate in the second year still remains higher than the new car sales tax rate. A similar pattern occurs under the proposal, except that the spike is more pronounced in the first year after purchase.

For trucks and sport/utility vehicles a different pattern occurs. Under current law, there is a spike in the first year following a new car purchase, *but there is an even more pronounced spike in the second year after purchase*. This is attributable to current depreciation practices that provide for a depreciation factor of around 80% in the first year following a new vehicle purchase, but then increase the value in the second year following a new vehicle purchase to 93% on average for trucks, and to 96% on average for sport/utility vehicles. Under the proposal, there would continue to be a spike in the first year following a new car purchase, but there would be no further spiking in subsequent

years.

What this means is that *proposals that tie to MSRP will eliminate the issue of double spiking present in current practices*, as illustrated in Attachment 5. The first year spike will continue, but this issue is generally understood when it is explained that there are two separate taxes that apply to automobiles. It is the issue of the double spike, another increase in tax after the first year following the purchase of a new vehicle, that under current law is especially troubling to taxpayers.

Within the context of the current approaches being considered for adoption, including the approach presented here, there are only two solutions to the first year spike problem, neither of which has much appeal. First, the spike can be eliminated simply by increasing the new car sales tax to 2%--probably not a viable solution in today's political climate where tax increases are political anathema.

The second solution would be to drop the property tax depreciation rate for all vehicle types to 75% in the first year of property taxation, and reduce it in every year thereafter. This however, would cause a dramatic shift in tax liability away from vehicles age 1 to 5 years old to older vehicles. Table 4 highlights this shift. Current market conditions do not reduce the depreciation rate on passenger cars to below 75% until year 3; for trucks and sport-utility vehicles this rate isn't reached until year 5; and for vans the depreciation rate isn't below 75% until year 4. The reform approach presented in this paper was designed specifically to ameliorate complaints that earlier approaches had resulted in large shifts in liability between vehicle types and age groups. Reducing the depreciation rate in the first year of the property tax to 75% would be contrary to these goals.

In short, within the context of approaches that incorporate depreciation schedules tied to MSRP, the spike issue can be resolved, but not without creating other, perhaps less palatable, issues.

Attachment 1

ESTIMATED CURRENT AND PROPOSED PROPERTY TAX BY VEHICLE TYPE AND AGE GROUP, TAX YEAR 1995

BY VEHICLE TYPE

Vehicle Type	Current Law Tax	% of CL Tax	Proposed Law Tax	% of PL Tax	Change in Tax	% Change in Tax
Passenger Car	25,622,306	43%	25,629,065	43%	6,759	0.03%
Truck	20,345,278	34%	20,375,124	34%	29,846	0.15%
Van	4,930,528	8%	4,920,095	8%	(10,433)	-0.21%
Other	8,580,742	14%	8,596,369	14%	15,627	0.18%
Total	59,478,854	100%	59,520,653	100%	41,799	0.07%

BY AGE GROUP

Vehicle Age Group	Current Law Tax	% of CL Tax	Proposed Law Tax	% of PL Tax	Change in Tax	% Change in Tax
1 - 5 Yrs. Old	36,473,518	61%	36,732,240	62%	258,722	0.71%
6 - 10 Yrs. Old	18,122,555	30%	17,919,815	30%	(202,740)	-1.12%
10 - 15 Yrs. Old	4,181,485	7%	4,187,919	7%	6,434	0.15%
>15 Yrs. Old	701,296	1%	680,679	1%	(20,617)	-2.94%
Total	59,478,854	100%	59,520,653	100%	41,799	0.07%

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Attachment 2

DISTRIBUTION OF NUMBER OF VEHICLES BY TYPE AND AGE - PROPERTY TAX

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	79,010	111,380	78,410	22,640	291,440
Truck	50,605	59,940	47,855	20,575	178,975
Van	12,910	13,985	5,470	1,780	34,145
Other	17,420	15,995	11,885	3,835	49,135
Total	159,945	201,300	143,620	48,830	553,695

DISTRIBUTION OF CURRENT LAW PROPERTYTAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	15,604,467	8,055,950	1,684,314	277,575	25,622,306
Truck	11,896,294	6,439,315	1,699,170	310,499	20,345,278
Van	3,247,293	1,493,896	170,227	19,112	4,930,528
Other	5,725,464	2,133,394	627,774	94,110	8,580,742
Total	36,473,518	18,122,555	4,181,485	701,296	59,478,854

DISTRIBUTION OF PROPOSED LAW PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	15,750,373	7,888,316	1,701,341	289,035	25,629,065
Truck	11,949,562	6,459,361	1,683,411	282,790	20,375,124
Van	3,287,222	1,442,560	171,069	19,244	4,920,095
Other	5,745,083	2,129,578	632,098	89,610	8,596,369
Total	36,732,240	17,919,815	4,187,919	680,679	59,520,653

CHANGE IN PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	145,906	(167,634)	17,027	11,460	6,759
Truck	53,268	20,046	(15,759)	(27,709)	29,846
Van	39,929	(51,336)	842	132	(10,433)
Other	19,619	(3,816)	4,324	(4,500)	15,627
Total	258,722	(202,740)	6,434	(20,617)	41,799

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09-Dec-96

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Attachment 3

CURRENT LAW AVERAGE PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	197	72	21	12	88
Truck	235	107	36	15	114
Van	252	107	31	11	144
Other	329	133	53	25	175
Total	228	90	29	14	107

PROPOSED LAW AVERAGE PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	199	71	22	13	88
Truck	236	108	35	14	114
Van	255	103	31	11	144
Other	330	133	53	23	175
Total	230	89	29	14	107

DOLLAR CHANGE IN AVERAGE PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	2	(2)	0	1	0
Truck	1	0	(0)	(1)	0
Van	3	(4)	0	0	(0)
Other	1	(0)	0	(1)	0
Total	2	(1)	0	(0)	0

PERCENT CHANGE IN AVERAGE PROPERTY TAX BY TYPE AND AGE

Vehicle Type	Age Group				Total
	1-5 Yrs. Old	6-10 Yrs. Old	11-15 Yrs. Ol	>15 Yrs. Old	
Passenger Car	1%	-2%	1%	4%	0%
Truck	0%	0%	-1%	-9%	0%
Van	1%	-3%	0%	1%	-0%
Other	0%	-0%	1%	-5%	0%
Total	1%	-1%	0%	-3%	0%

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09-Dec-96

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Attachment 4

Change in Total Property Tax, and Property Tax Per Vehicle
Separate, Market-Driven Depreciation Schedules for Each Vehicle Type
By County, Tax Year 1995

County	# Vehicles	Current Law Tax	Proposed Law Tax	Change in Tax		
				Total	%	Per Vehicle
SILVER BOW	21,240	2,237,000	2,245,256	8,256	0.4%	0.39
CASCADE	45,345	4,732,220	4,762,949	30,729	0.6%	0.68
YELLOWSTONE	80,405	8,966,583	8,944,273	(22,310)	-0.2%	-0.28
MISSOULA	55,575	5,807,531	5,752,338	(55,193)	-1.0%	-0.99
LEWIS AND CLAR	34,255	3,698,597	3,673,493	(25,104)	-0.7%	-0.73
GALLATIN	38,180	4,243,296	4,170,722	(72,574)	-1.7%	-1.90
FLATHEAD	48,445	5,118,568	5,054,242	(64,326)	-1.3%	-1.33
FERGUS	8,405	851,007	860,788	9,781	1.1%	1.16
POWDER RIVER	1,730	204,022	209,363	5,341	2.6%	3.09
CARBON	6,675	723,906	729,179	5,273	0.7%	0.79
PHILLIPS	3,500	369,025	370,101	1,076	0.3%	0.31
HILL	9,785	1,057,030	1,074,005	16,975	1.6%	1.73
RAVALLI	20,970	2,137,893	2,106,844	(31,049)	-1.5%	-1.48
CUSTER	7,850	806,684	825,422	18,738	2.3%	2.39
LAKE	13,785	1,411,043	1,434,516	23,473	1.7%	1.70
DAWSON	6,615	704,921	715,882	10,961	1.6%	1.66
ROOSEVELT	4,260	486,304	499,904	13,600	2.8%	3.19
BEAVERHEAD	6,030	676,899	683,329	6,430	0.9%	1.07
CHOUTEAU	4,375	509,791	515,365	5,574	1.1%	1.27
VALLEY	5,725	648,125	654,708	6,583	1.0%	1.15
TOOLE	3,755	436,441	439,436	2,995	0.7%	0.80
BIG HORN	4,420	505,006	517,033	12,027	2.4%	2.72
MUSSELSHELL	3,145	326,660	328,899	2,239	0.7%	0.71
BLAINE	3,365	373,851	386,881	13,030	3.5%	3.87
MADISON	5,325	659,319	651,291	(8,028)	-1.2%	-1.51
PONDERA	3,980	431,421	434,976	3,555	0.8%	0.89
RICHLAND	7,720	829,678	844,019	14,341	1.7%	1.86
POWELL	3,955	410,180	409,182	(998)	-0.2%	-0.25
ROSEBUD	5,860	673,828	689,340	15,512	2.3%	2.65
DEER LODGE	6,215	615,630	618,735	3,105	0.5%	0.50
TETON	4,605	481,759	492,847	11,088	2.3%	2.41
STILLWATER	5,685	615,643	624,867	9,224	1.5%	1.62
TREASURE	715	78,841	83,760	4,919	6.2%	6.88
SHERIDAN	3,680	413,727	423,238	9,511	2.3%	2.58
SANDERS	6,475	614,935	619,853	4,918	0.8%	0.76
JUDITH BASIN	2,000	216,637	218,485	1,848	0.9%	0.92
DANIELS	1,800	209,782	215,877	6,095	2.9%	3.39
GLACIER	4,005	479,182	499,872	20,690	4.3%	5.17
FALLON	2,470	284,178	294,523	10,345	3.6%	4.19
SWEET GRASS	2,620	298,545	298,709	164	0.1%	0.06
MCCONE	1,930	224,060	224,602	542	0.2%	0.28
CARTER	1,130	119,631	123,307	3,676	3.1%	3.25
BROADWATER	2,845	300,717	304,759	4,042	1.3%	1.42
WHEATLAND	1,600	166,390	169,029	2,639	1.6%	1.65
PRAIRIE	1,130	118,749	121,224	2,475	2.1%	2.19
GRANITE	2,080	223,479	225,656	2,177	1.0%	1.05
MEAGHER	1,390	162,188	160,317	(1,871)	-1.2%	-1.35
LIBERTY	1,675	206,950	203,822	(3,128)	-1.5%	-1.87
PARK	11,005	1,176,394	1,170,999	(5,395)	-0.5%	-0.49
GARFIELD	1,110	131,266	133,517	2,251	1.7%	2.03
JEFFERSON	6,370	718,967	712,659	(6,308)	-0.9%	-0.99
WIBAUX	895	83,255	87,552	4,297	5.2%	4.80
GOLDEN VALLEY	695	74,645	79,685	5,040	6.8%	7.25
MINERAL	2,340	208,056	206,758	(1,298)	-0.6%	-0.55
PETROLEUM	535	58,569	60,359	1,790	3.1%	3.35
LINCOLN	12,020	1,159,850	1,161,910	2,060	0.2%	0.17
Totals	553,695	59,478,854	59,520,657	41,803	0.1%	0.08

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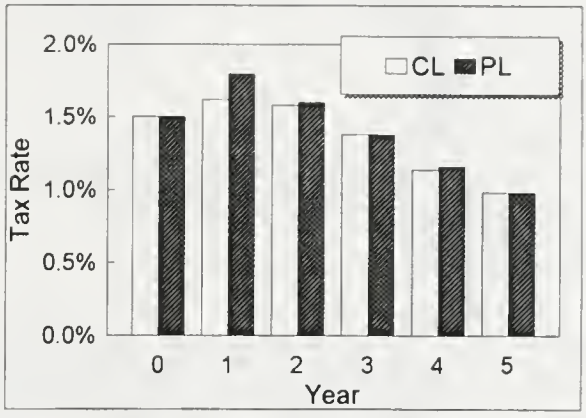
Attachment 5

Illustration of Spiking Effects
Current Market Conditions v. Proposal

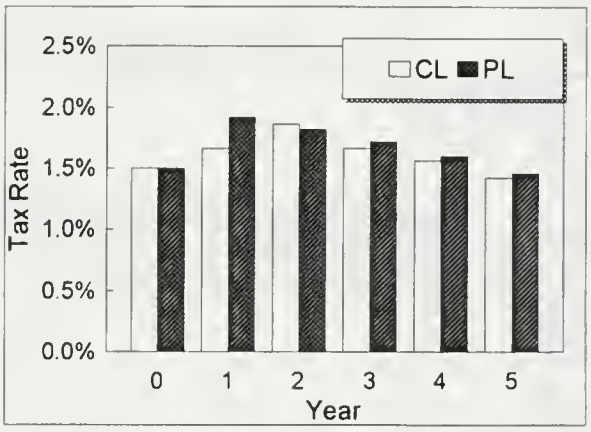
A. PASSENGER CARS:

	Depreciation Rate		Effective Tax Rate	
Year	CL	PL	CL	PL
0	1.00	1.00	1.50%	1.50%
1	0.81	0.90	1.62%	1.80%
2	0.79	0.80	1.58%	1.60%
3	0.69	0.69	1.38%	1.38%
4	0.57	0.58	1.14%	1.16%
5	0.49	0.49	0.98%	0.98%



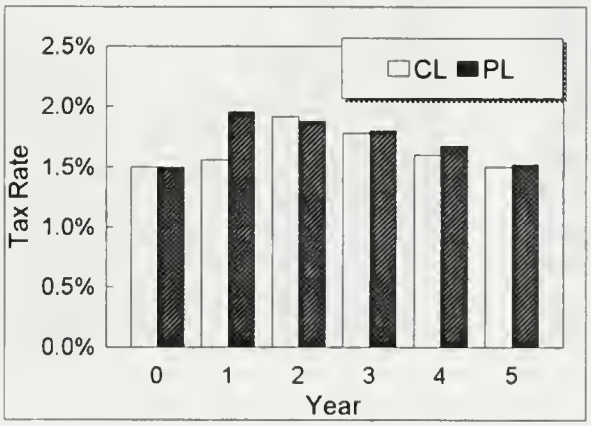
B. TRUCKS:

	Depreciation Rate		Effective Tax Rate	
Year	CL	PL	CL	PL
0	1.00	1.00	1.50%	1.50%
1	0.83	0.96	1.66%	1.92%
2	0.93	0.91	1.86%	1.82%
3	0.83	0.86	1.66%	1.72%
4	0.78	0.80	1.56%	1.60%
5	0.71	0.73	1.42%	1.46%



C. SPORT/UTILITY VEHICLES:

	Depreciation Rate		Effective Tax Rate	
Year	CL	PL	CL	PL
0	1.00	1.00	1.50%	1.50%
1	0.78	0.98	1.56%	1.96%
2	0.96	0.94	1.92%	1.88%
3	0.89	0.90	1.78%	1.80%
4	0.80	0.84	1.60%	1.68%
5	0.75	0.76	1.50%	1.52%



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AUTOMOBILE/LIGHT TRUCKS

YEAR/MAKE/MODEL	1995 TRADE-IN	1995 Actual TAX	MSRP	1995 Proposed TAX	Difference
1994 CHEV CAVALIER	$8,275	$166	$8,995	$144	($22)
1993 CHRYS LEBARON	9,875	198	15,191	210	12
1991 FORD THUNDERBIRD	7,325	147	15,318	150	4
1990 FORD ESCORT	2,425	49	7,402	61	12
1992 PLYMOUTH COLT	4,125	83	7,302	85	2
1992 MERCEDES	20,750	415	34,900	405	(10)
1990 VW JETTA	5,675	114	10,295	84	(29)
1991 LEXUS	25,300	506	38,000	372	(134)
1994 EAGLE TALON	10,425	209	11,892	190	(18)
1989 FORD FESTIVA	1,800	36	6,964	46	10
1984 FORD ESCORT	500	10	5,629	14	4
1981 DODGE DIPLOMAT	500	10	6,910	12	2
1980 CHRY NEW YORK	500	10	6,840	12	2
1987 TOYOTA VAN	2,225	45	9,548	40	(4)
1987 CHEV 1/2 TON	$4,900	$98	$10,077	$87	($11)
1979 CHEV 1/2 TON	875	18	5,777	14	(4)
1988 DODGE RAM50	2,700	54	6,845	67	13
1992 CHEV 1/2 TON	12,575	252	14,045	225	(27)
1994 GMC SIERRA 1/2T	16,750	335	17,882	325	(10)
1990 FORD 1/2 TON	7,925	159	11,435	151	(8)
1988 JEEP CHEROKEE	$5,825	$117	$13,554	$130	$14
1994 TOYOTA CAMRY	14,125	283	16,438	263	(19)
1979 PINTO	500	10	3,939	7	(3)
1991 MITSUBISHI MONTERO	10,700	214	15,489	235	21
1991 MUSTANG	11,775	236	19,864	195	(41)
1988 VOLVO STATION WGN	6,150	123	17,075	89	(34)
1989 OLDS CUTLASS	3,325	67	9,995	66	(1)

APPENDIX C

IMPACT OF ADOPTING A FLAT FEE SYSTEM OF TAXATION

FOR HEAVY TRUCKS IN MONTANA

Office of Research and Information
Montana Department of Revenue

August 29, 1996

Impacts of Adopting a Flat Fee System of Taxation for Heavy Trucks in Montana

This paper provides a follow-up to the proposal paper presented earlier dated August 7, 1996 and having the same title. At the August 20, 1996 meeting of the Motor Vehicle Advisory Committee working group, it was decided that several refinements to the proposal drafted earlier were needed. This paper presents those modifications, and provides the impacts that arise as a result.

The working group decided to continue to explore a single flat fee schedule that would apply to all heavy trucks, and would result in overall revenue neutrality. Heavy trucks include those vehicles currently taxed as Class 8 personal property and interstate vehicle fleets (IRP vehicles). The flat fees should incorporate current law proration and apportionment for interstate vehicle fleets. Revenue from flat fees applied to heavy trucks not a part of an interstate fleet should continue to be distributed on the basis of relative mill levies; flat fee revenue from interstate vehicle fleets should continue to be distributed to counties on the basis of relative tax base. It was further decided that the flat fee schedule should be based on the following four weight classes:

Class	GVW
1	0 - 16,000
2	17,000 - 24,000
3	25,000 - 54,000
4	55,000+

The previous proposal provided for a flat fee schedule that was based on three-year age groupings, and proposed flat fees that increased liability for IRP vehicles by about $98,000 while reducing liability on Class 8 trucks by a similar amount. The proposal suggested at the August 20 meeting would require not only revenue neutrality overall, but also revenue neutrality within each subgroup of vehicles; that is, for Class 8 trucks and for IRP vehicles.

It also was decided that the age groupings should be narrower to achieve a greater degree of revenue neutrality among vehicles of the same age. Consequently, the proposal presented here provides for 16 age groups: ten groups of a single year for vehicles age 1 through 10; five groups of two years each for vehicles aged 11 through 20; and a final group for all vehicles age 21 or older.

Current Law Data

Attachments 1 and 2 provide current law information. *Attachment 1* shows the distribution of Class 8 trucks and IRP vehicles, by proposed age groups and weight classes. The

shaded areas of the tables indicate where these vehicles tend to be heavily concentrated. Class 8 trucks tend to be older and lighter, with 62% in the oldest age group, and 86% with a GVW of less than 55,000. IRP vehicles, on the other hand, tend to be newer and heavier, with 79% ten years old or less, and 84% with a GVW of 55,000 or more.

To prevent large shifts in tax liability between age groups or weight classes in going to a flat fee schedule, the proposed schedule should, to as great a degree as possible, reflect current law average tax liability within each age group and weight class. *Attachment 2* shows the current law average tax for Class 8 trucks, and the current law average tax before proration and apportionment for IRP vehicles. These are the relevant averages on which flat fees should be based in order to approach revenue neutrality. If there is a large disparity between Class 8 trucks and IRP vehicles with respect to these averages, then the setting of a single flat fee that will apply to both vehicle types will necessarily result in some degree of revenue shifting.

For example, look at the table cells defined by vehicles with GVW of 16,000 or less that are one year old. For Class 8 trucks the current law average tax is $955. A flat fee schedule that results in revenue neutrality for these trucks would require a flat fee of $955. Now look at the same cell for the IRP vehicles table–the average tax is only $364! For these vehicles revenue neutrality would require a flat fee of $364. Clearly, using a single flat fee for both Class 8 trucks and IRP vehicles will result in a shift in revenue for vehicles in this age group and weight class. This is true for nearly all of the cells in the table; that is, there are big differences in the current law average tax being paid by Class 8 trucks, when compared to IRP vehicles, for all combinations of age groups and weight classes. In other words, ***a single flat fee schedule that applies to both Class 8 trucks and IRP vehicles, while revenue-neutral overall, and revenue-neutral for both subgroups of vehicles, necessarily results in revenue shifts among individual combinations of age groups and weight classes.***

Given this understanding, *Attachment 3* provides a revenue-neutral flat fee schedule, based on tax year 1995. *Attachment 4* shows the impact of this flat fee schedule on Class 8 trucks and IRP vehicles. The schedule results in no change in liability for either Class 8 trucks as a group, or for IRP vehicles as a group, but shows that there is revenue shifting among separate combinations of age and weight for both subgroups.

Attachment 5 adds perspective to this revenue shifting by showing the average dollar change in tax. Because 84% of all IRP vehicles are in the heaviest weight class, overall revenue neutrality for these vehicles depended critically on revenue neutrality for the IRP vehicles in this weight class. However, note that achieving revenue neutrality for IRP vehicles of 55,000 GVW or greater necessarily results in a reduction in liability for Class 8 trucks of the same weight class. This revenue loss must be made up by increasing liability on vehicles in lighter weight classes, particularly the 17,000 - 26,000 GVW weight class.

Attachments 6 and 7 show the distribution of tax liability changes for Class 8 trucks and IRP vehicles, respectively. For Class 8 trucks, 8,244 trucks (24%) experience a decrease or no change in liability; 23,578 trucks (67%) experience an increase in liability of less than $50; and 3,220 trucks (9%) experience an increase in liability of over $50.

For IRP vehicles, 3,204 trucks (41%) experience a decrease or no change in liability; 3,455 trucks (44%) experience an increase in liability of less than $50; and 1,177 trucks (15%) experience an increase in liability of over $50.

Attachment 8 shows the impact of this proposal on local governments. The flat fee schedule, when applied to Class 8 trucks, reduces funding to local governments a total of $21,000. However, the proposal to switch to depreciation schedules tied to MSRP for light cars and trucks increases funding to local governments by a similar amount, making the revenue impact neutral overall for local governments. Note that because the flat fee proposal for IRP vehicles is revenue neutral there is no impact on local governments for this change.

All of the analysis pertaining to flat fees was done using tax year 1995 data. The taxable valuation rate for Class 8 property in that year was 9 percent; this rate also applies to IRP vehicles for taxation purposes. SB417, 1995 Legislative Session, reduced that rate to 6% by the year 1998. Consequently, the flat fee schedule based on 1995 data, if effective initially in 1998, must be reduced by one third to reflect the drop in the rate from 9 to 6 percent. *Attachment 9* provides a schedule of flat fees that have been reduced by one third that would be effective in 1998. This is the schedule that should be incorporated into statute if this proposal moves forward, as reducing the flat fees by one third reduces the revenue generated from the schedule by one third.

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Attachment 1

Distribution of Class 8 Trucks by Age and Weight

Age	Weight Group (GVW) <=16	17 - 26	27 - 54	55+	Totals
1	2	25	38	10	75
2	13	53	111	86	263
3	19	86	88	78	271
4	23	60	109	61	253
5	17	97	155	67	336
6	24	95	162	117	398
7	29	82	166	159	436
8	31	126	176	211	544
9	24	95	169	198	486
10	25	105	216	199	545
11 - 12	39	270	473	543	1,325
13 - 14	41	228	498	296	1,063
15 - 16	66	383	953	449	1,851
17 - 18	121	666	1,481	633	2,901
19 - 20	141	745	1,371	417	2,674
21+	2,379	10,601	7,389	1,252	21,621
Totals	2,994	13,717	13,555	4,776	35,042

Distribution of IRP Vehicles by Age and Weight

Age	Weight Group (GVW) <=16	17 - 26	27 - 54	55+	Totals
1	51	86	48	1,142	1,327
2	31	27	33	638	729
3	33	14	36	445	528
4	23	16	30	503	572
5	23	23	42	574	662
6	25	18	33	624	700
7	21	11	30	493	555
8	7	6	27	384	424
9	12	9	22	257	300
10	5	7	41	336	389
11 - 12	25	11	44	323	403
13 - 14	15	16	56	238	325
15 - 16	8	18	54	241	321
17 - 18	5	9	34	163	211
19 - 20	5	10	31	74	120
21+	8	10	66	186	270
Totals	297	291	627	6,621	7,836

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Attachment 2

Current Law Average Tax - Class 8 Trucks

Age	Weight Group <=16	17 - 26	27 - 54	55+	Average
1	955	720	1,589	1,812	1,312
2	620	623	791	1,237	894
3	416	523	632	1,164	735
4	367	398	631	735	577
5	294	332	510	779	501
6	302	315	386	571	419
7	239	244	349	509	380
8	194	232	307	447	337
9	188	214	287	411	318
10	131	157	234	334	251
11 - 12	121	132	204	273	215
13 - 14	99	87	136	194	140
15 - 16	130	77	101	158	111
17 - 18	70	55	79	129	84
19 - 20	52	38	58	111	60
21+	26	24	37	78	31
Average	51	49	100	252	96

CL Ave.Tax Before Proration and Apportionment - IRP Vehicles

Age	Weight Group <=16	17 - 26	27 - 54	55+	Average
1	364	631	847	1,153	1,078
2	227	379	629	931	867
3	305	337	677	848	789
4	146	219	634	895	832
5	134	162	524	642	600
6	107	213	700	531	516
7	124	105	724	434	431
8	118	248	245	380	365
9	76	105	290	336	315
10	60	114	410	284	291
11 - 12	48	96	303	247	237
13 - 14	31	77	372	223	233
15 - 16	33	48	223	178	175
17 - 18	35	136	233	139	152
19 - 20	26	56	112	98	95
21+	50	32	96	103	97
Average	175	309	423	635	589

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Attachment 3

Proposed Law Flat Fee Schedule

Age	Weight Group (GVW)			
	<=16	17 - 26	27 - 54	55+
1	351	501	852	1,125
2	327	450	750	900
3	300	402	660	798
4	276	351	552	726
5	249	327	480	585
6	225	300	402	501
7	198	273	351	441
8	174	249	300	375
9	150	225	276	327
10	123	174	237	276
11 - 12	99	150	201	228
13 - 14	84	111	156	183
15 - 16	75	90	114	141
17 - 18	54	78	87	108
19 - 20	39	57	66	78
21+	30	36	48	60

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Current Law Total Tax - Class 8 Trucks

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	1,909	17,994	60,381	18,116	98,400
2	8,064	33,006	87,802	106,357	235,229
3	7,903	44,951	55,592	90,789	199,235
4	8,439	23,876	68,804	44,849	145,968
5	4,992	32,232	79,075	52,182	168,481
6	7,239	29,920	62,544	66,864	166,566
7	6,928	20,005	57,921	80,902	165,756
8	6,010	29,192	53,986	94,290	183,477
9	4,517	20,337	48,553	81,317	154,723
10	3,270	16,477	50,482	66,465	136,695
11 - 12	4,729	35,620	96,548	148,014	284,912
13 - 14	4,066	19,732	67,691	57,440	148,929
15 - 16	8,600	29,439	96,719	70,814	205,572
17 - 18	8,524	36,756	117,552	81,654	244,486
19 - 20	7,385	28,316	79,894	46,153	161,749
21+	61,064	249,511	270,567	97,358	678,501
Totals	153,640	667,365	1,354,110	1,203,563	3,378,679

Proposed Law Total Tax - Class 8 Trucks

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	702	12,525	32,376	11,250	56,853
2	4,251	23,850	83,250	77,400	188,751
3	5,700	34,572	58,080	62,244	160,596
4	6,348	21,060	60,168	44,286	131,862
5	4,233	31,719	74,400	39,195	149,547
6	5,400	28,500	65,124	58,617	157,641
7	5,742	22,386	58,266	70,119	156,513
8	5,394	31,374	52,800	79,125	168,693
9	3,600	21,375	46,644	64,746	136,365
10	3,075	18,270	51,192	54,924	127,461
11 - 12	3,861	40,500	95,073	123,804	263,238
13 - 14	3,444	25,308	77,688	54,168	160,608
15 - 16	4,950	34,470	108,642	63,309	211,371
17 - 18	6,534	51,948	128,847	68,364	255,693
19 - 20	5,499	42,465	90,486	32,526	170,976
21+	71,370	381,636	354,672	75,120	882,798
Totals	140,103	821,958	1,437,708	979,197	3,378,966

Change in Tax - Class 8 Trucks

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	(1,207)	(5,469)	(28,005)	(6,866)	(41,547)
2	(3,813)	(9,156)	(4,552)	(28,957)	(46,478)
3	(2,203)	(10,379)	2,488	(28,545)	(38,639)
4	(2,091)	(2,816)	(8,636)	(563)	(14,106)
5	(759)	(513)	(4,675)	(12,987)	(18,934)
6	(1,839)	(1,420)	2,580	(8,247)	(8,925)
7	(1,186)	2,381	345	(10,783)	(9,243)
8	(616)	2,182	(1,186)	(15,165)	(14,784)
9	(917)	1,038	(1,909)	(16,571)	(18,358)
10	(195)	1,793	710	(11,541)	(9,234)
11 - 12	(868)	4,880	(1,475)	(24,210)	(21,674)
13 - 14	(622)	5,576	9,997	(3,272)	11,679
15 - 16	(3,650)	5,031	11,923	(7,505)	5,799
17 - 18	(1,990)	15,192	11,295	(13,290)	11,207
19 - 20	(1,886)	14,149	10,592	(13,627)	9,227
21+	10,306	132,125	84,105	(22,238)	204,297
Totals	(13,537)	154,593	83,598	(224,366)	287

CL Total Tax - IRP Vehicles

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	9,637	13,491	24,017	308,895	356,040
2	3,212	3,816	10,856	126,940	144,824
3	3,834	1,897	13,311	90,884	109,926
4	1,734	1,668	5,833	83,059	92,294
5	1,911	2,005	10,843	89,717	104,477
6	1,606	1,900	12,869	79,990	96,365
7	1,103	724	9,184	61,221	72,232
8	343	741	3,597	45,500	50,180
9	437	524	3,507	27,562	32,029
10	156	423	10,233	33,336	44,148
11 - 12	580	532	8,826	33,344	43,282
13 - 14	210	767	13,891	21,875	36,743
15 - 16	146	464	5,536	19,219	25,365
17 - 18	69	504	4,959	11,679	17,210
19 - 20	64	264	1,884	3,380	5,592
21+	211	157	3,588	9,236	13,192
Totals	25,252	29,878	142,933	1,045,835	1,243,898

Proposed Law Total Tax - IRP Vehicles

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	9,616	11,415	24,860	309,280	355,171
2	4,910	5,395	15,957	125,806	152,068
3	4,761	2,664	14,119	91,088	112,632
4	3,324	2,996	8,752	78,437	93,509
5	3,400	4,301	11,409	92,478	111,588
6	3,260	2,515	7,265	84,441	97,481
7	2,079	1,862	5,244	69,336	78,521
8	573	837	4,744	49,525	55,679
9	897	1,132	3,112	30,072	35,213
10	305	828	5,712	34,457	41,301
11 - 12	1,334	875	5,994	31,296	39,499
13 - 14	577	1,224	5,914	19,344	27,059
15 - 16	327	841	3,410	16,181	20,759
17 - 18	97	437	1,937	8,899	11,370
19 - 20	105	312	1,212	2,603	4,231
21+	134	181	1,855	5,644	7,814
Totals	35,698	37,814	121,497	1,048,888	1,243,897

Change in Tax - IRP Vehicles

Age	Weight Group <=16	17 - 26	27 - 54	55+	Totals
1	(21)	(2,076)	843	386	(869)
2	1,698	1,579	5,101	(1,134)	7,244
3	927	767	808	204	2,706
4	1,590	1,328	2,919	(4,621)	1,216
5	1,488	2,295	566	2,761	7,111
6	1,654	615	(5,604)	4,451	1,117
7	976	1,138	(3,940)	8,116	6,289
8	231	96	1,147	4,026	5,499
9	460	609	(394)	2,510	3,184
10	149	405	(4,521)	1,120	(2,847)
11 - 12	754	343	(2,832)	(2,048)	(3,783)
13 - 14	367	457	(7,977)	(2,531)	(9,683)
15 - 16	180	378	(2,126)	(3,038)	(4,606)
17 - 18	28	(67)	(3,021)	(2,780)	(5,840)
19 - 20	41	47	(672)	(777)	(1,361)
21+	(77)	23	(1,732)	(3,592)	(5,378)
Totals	10,446	7,937	(21,436)	3,053	(0)

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Attachment 4

Attachment 5

Average $ Change in Tax - Class 8 Trucks

Age	Weight Group <=16	17 - 26	27 - 54	55+	Average
1	(604)	(219)	(737)	(687)	(554)
2	(293)	(173)	(41)	(337)	(177)
3	(116)	(121)	28	(366)	(143)
4	(91)	(47)	(79)	(9)	(56)
5	(45)	(5)	(30)	(194)	(56)
6	(77)	(15)	16	(70)	(22)
7	(41)	29	2	(68)	(21)
8	(20)	17	(7)	(72)	(27)
9	(38)	11	(11)	(84)	(38)
10	(8)	17	3	(58)	(17)
11 - 12	(22)	18	(3)	(45)	(16)
13 - 14	(15)	24	20	(11)	11
15 - 16	(55)	13	13	(17)	3
17 - 18	(16)	23	8	(21)	4
19 - 20	(13)	19	8	(33)	3
21+	4	12	11	(18)	9
Average	(5)	11	6	(47)	0

Average $ Change in Tax - IRP Vehicles

Age	Weight Group <=16	17 - 26	27 - 54	55+	Average
1	(0)	(24)	18	0	(1)
2	55	58	155	(2)	10
3	28	55	22	0	5
4	69	83	97	(9)	2
5	65	100	13	5	11
6	66	34	(170)	7	2
7	46	103	(131)	16	11
8	33	16	42	10	13
9	38	68	(18)	10	11
10	30	58	(110)	3	(7)
11 - 12	30	31	(64)	(6)	(9)
13 - 14	24	29	(142)	(11)	(30)
15 - 16	23	21	(39)	(13)	(14)
17 - 18	6	(7)	(89)	(17)	(28)
19 - 20	8	5	(22)	(11)	(11)
21+	(10)	2	(26)	(19)	(20)
Average	35	27	(34)	0	(0)

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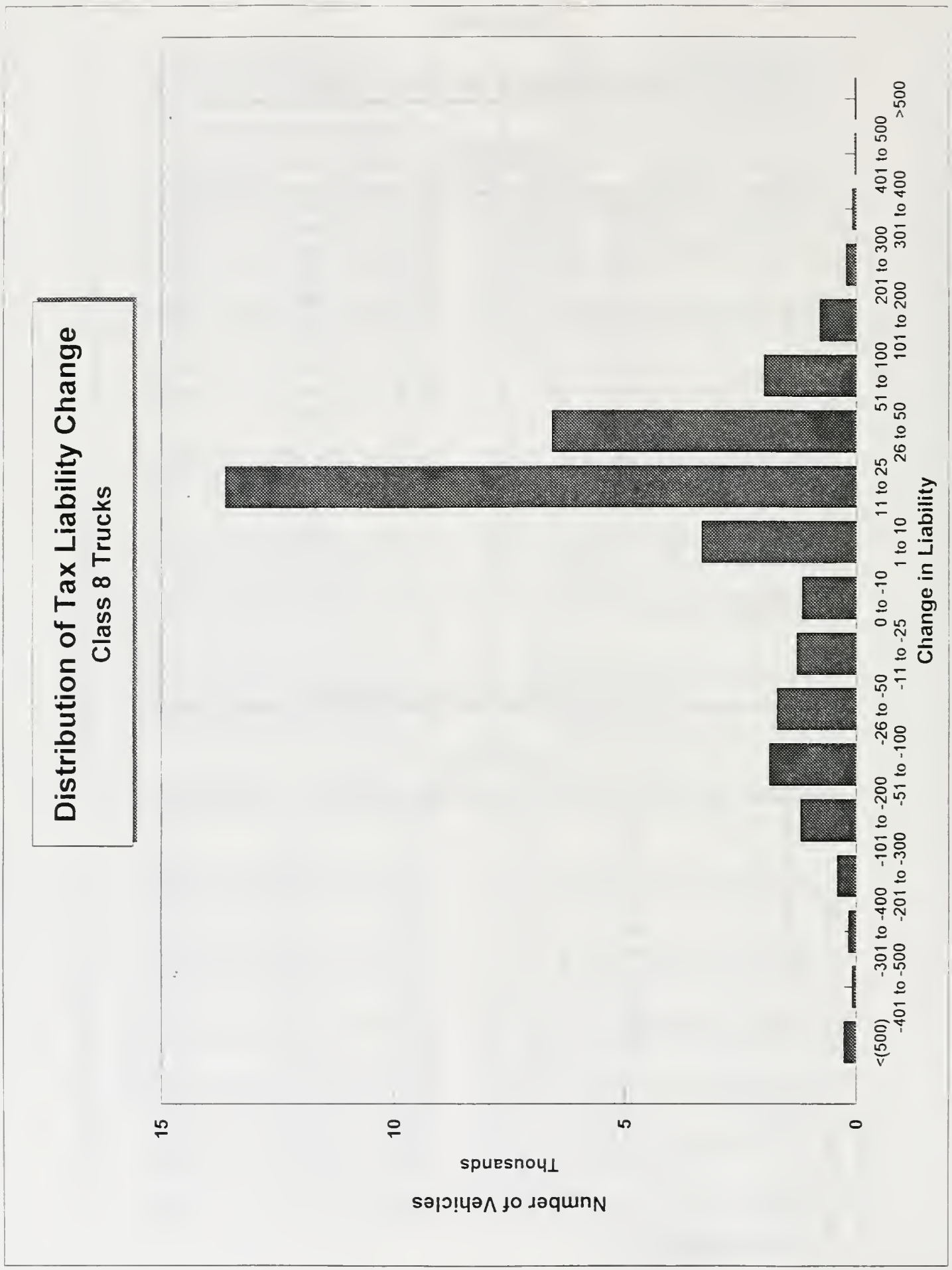
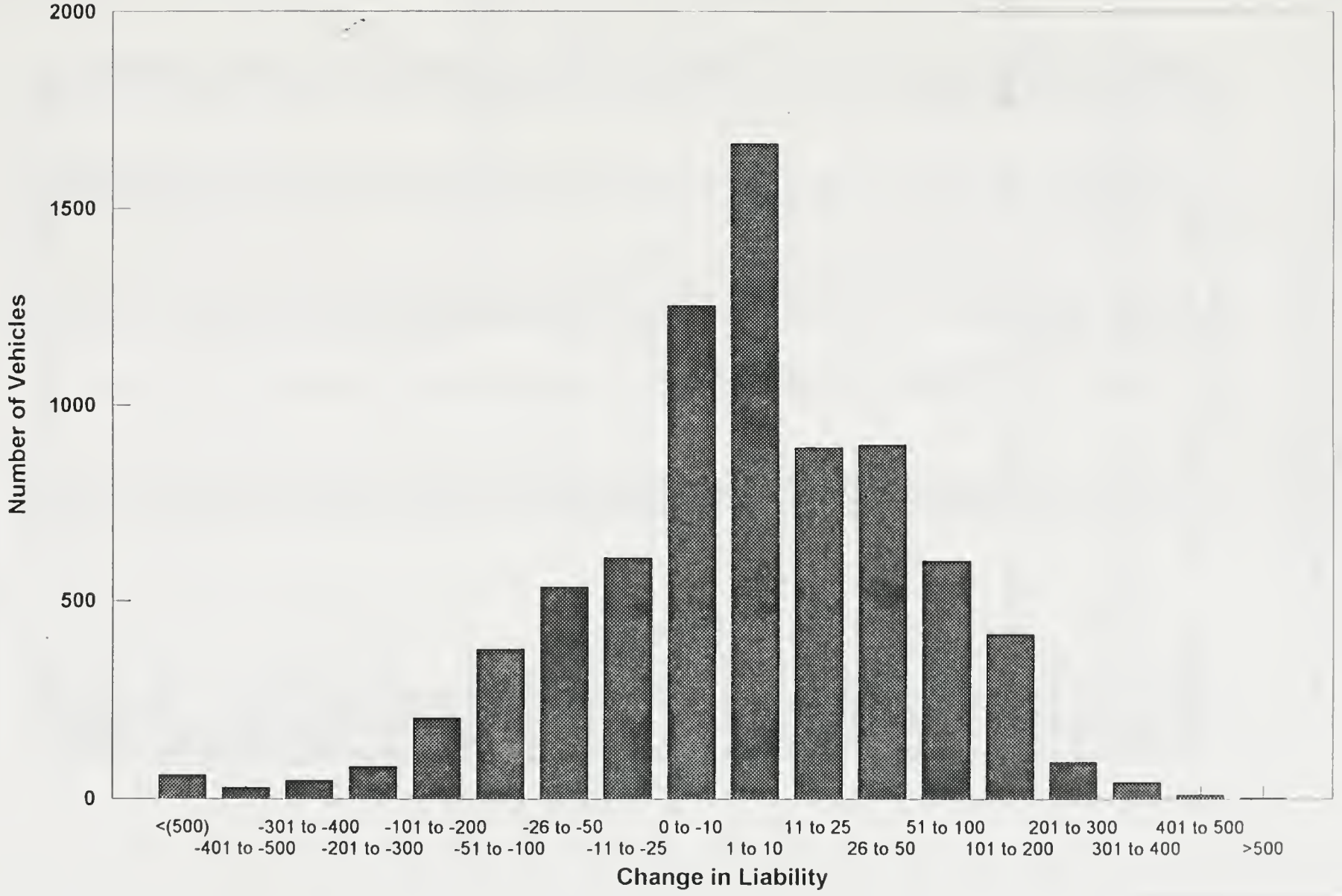

Distribution of Tax Liability Change
Class 8 Trucks
Number of Vehicles
Thousands
15
10
5
0
<(500)
-401 to -500
-301 to -400
-201 to -300
-101 to -200
-51 to -100
-26 to -50
-11 to -25
0 to -10
1 to 10
11 to 25
26 to 50
51 to 100
101 to 200
201 to 300
301 to 400
401 to 500
>500
Change in Liability

Distribution of Tax Liability Change
IRP Vehicles



Attachment 7

Combined Impact of Motor Vehicle Taxation Reform Proposal
Impact to Local Governments (Cities and Towns; Counties, Incl. Loc. Op. Tax)
Tax Year 1995; Class 8 Tax Rate of 9%

County	Impact of Flatfee: Class 8	Impact of Flatfee: IRP	Total Impact of Flatfee:	Impact of Light Cars and Trucks	Net Total Impact
SILVER BOW	(17,465)	0	(17,465)	4,106	(13,359)
CASCADE	(8,391)	0	(8,391)	13,829	5,438
YELLOWSTONE	15,620	0	15,620	(8,236)	7,384
MISSOULA	(43,779)	0	(43,779)	(23,976)	(67,755)
LEWIS AND CLARK	(2,411)	0	(2,411)	(9,423)	(11,834)
GALLATIN	(12,424)	0	(12,424)	(28,983)	(41,407)
FLATHEAD	(34,983)	0	(34,983)	(24,260)	(59,244)
FERGUS	1,459	0	1,459	3,544	5,003
POWDER RIVER	(297)	0	(297)	2,634	2,336
CARBON	2,877	0	2,877	2,003	4,879
PHILLIPS	4,333	0	4,333	329	4,662
HILL	5,484	0	5,484	6,906	12,390
RAVALLI	(195)	0	(195)	(12,869)	(13,064)
CUSTER	(691)	0	(691)	9,704	9,013
LAKE	(3,177)	0	(3,177)	10,196	7,019
DAWSON	(4,063)	0	(4,063)	4,973	910
ROOSEVELT	3,733	0	3,733	4,638	8,371
BEAVERHEAD	1,222	0	1,222	2,438	3,660
CHOUTEAU	5,363	0	5,363	2,357	7,719
VALLEY	1,553	0	1,553	2,481	4,034
TOOLE	5,074	0	5,074	1,040	6,114
BIG HORN	5,023	0	5,023	2,609	7,631
MUSSELSHELL	(186)	0	(186)	1,117	932
BLAINE	5,595	0	5,595	5,125	10,721
MADISON	(135)	0	(135)	(2,192)	(2,327)
PONDERA	2,962	0	2,962	1,657	4,619
RICHLAND	6,879	0	6,879	6,175	13,054
POWELL	1,751	0	1,751	(334)	1,417
ROSEBUD	3,604	0	3,604	2,744	6,348
DEER LODGE	(2,844)	0	(2,844)	1,325	(1,519)
TETON	3,403	0	3,403	5,823	9,226
STILLWATER	2,334	0	2,334	2,977	5,311
TREASURE	(272)	0	(272)	2,086	1,814
SHERIDAN	5,294	0	5,294	4,148	9,442
SANDERS	683	0	683	2,119	2,803
JUDITH BASIN	3,840	0	3,840	650	4,489
DANIELS	2,400	0	2,400	2,219	4,619
GLACIER	(1,320)	0	(1,320)	8,670	7,350
FALLON	3,428	0	3,428	3,027	6,455
SWEET GRASS	519	0	519	60	579
MCCONE	2,548	0	2,548	195	2,743
CARTER	1,372	0	1,372	1,743	3,115
BROADWATER	2,339	0	2,339	1,834	4,174
WHEATLAND	910	0	910	963	1,872
PRAIRIE	1,281	0	1,281	1,455	2,736
GRANITE	(713)	0	(713)	819	106
MEAGHER	255	0	255	(810)	(555)
LIBERTY	6,145	0	6,145	(1,122)	5,022
PARK	1,578	0	1,578	(1,909)	(331)
GARFIELD	2,882	0	2,882	996	3,878
JEFFERSON	720	0	720	(2,179)	(1,459)
WIBAUX	(13)	0	(13)	2,161	2,148
GOLDEN VALLEY	333	0	333	1,142	1,475
MINERAL	(176)	0	(176)	(425)	(601)
PETROLEUM	448	0	448	388	836
LINCOLN	(2,724)	0	(2,724)	790	(1,934)
State	(21,013)	0	(21,013)	19,474	(1,540)

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Attachment 9

Proposed Law Flat Fee Schedule - Tax Year 1998

Age	Weight Group (GVW)			
	<=16	17 - 26	27 - 54	55+
1	234	334	568	750
2	218	300	500	600
3	200	268	440	532
4	184	234	368	484
5	166	218	320	390
6	150	200	268	334
7	132	182	234	294
8	116	166	200	250
9	100	150	184	218
10	82	116	158	184
11 - 12	66	100	134	152
13 - 14	56	74	104	122
15 - 16	50	60	76	94
17 - 18	36	52	58	72
19 - 20	26	38	44	52
21+	20	24	32	40

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Distribution of Vehicles by Change in Liability

Change	Number of Vehicles Class 8	IRP
<(500)	276	61
-401 to -50	97	29
-301 to -40	175	47
-201 to -30	420	83
-101 to -20	1,202	205
-51 to -100	1,885	379
-26 to -50	1,720	536
-11 to -25	1,294	610
0 to -10	1,175	1,254
1 to 10	3,349	1,666
11 to 25	13,645	891
26 to 50	6,584	898
51 to 100	2,000	603
101 to 200	795	418
201 to 300	237	95
301 to 400	103	44
401 to 500	44	13
>500	41	4
Totals	35,042	7,836
	27,767	5,855
	79.2%	74.7%
	19463	4421
	0.555419	56.4%

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